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26-ORD-276

June 11, 2026

In re: Joshua Campbell/University of Kentucky

Summary: The University of Kentucky (“the University”) violated the Open Records Act (“the Act”) when it withheld records without citing any exception authorizing its withholding and instead citing a temporary custody order.

Open Records Decision

On May 12, 2026, Joshua Campbell (“the Appellant”) submitted a 12-part request to the University seeking education records related to his child’s “enrollment, attendance, and separation from” the University’s Early Childhood Laboratory (ECL).¹ The University denied the request, stating that it was “made aware of the Court orders in the above referenced matter” and was therefore denying the request “pursuant to KRS 61.878(1)(a).” This appeal followed.

Upon receiving a request to inspect public records, a public agency must determine within five business days whether to grant the request or deny it. KRS 61.880(1). If the agency chooses to deny the request, it “shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” *Id.* An agency response denying a request for records must explain the denial by “provid[ing] particular and detailed information,” not merely a “limited and perfunctory response.” *Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. 1996). “The agency’s explanation must be detailed enough to permit [a reviewing] court to assess its claim and the opposing party to challenge it.” *Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013).

On appeal, the University abandons its reliance on KRS 61.878(1)(a). Instead, it asks whether “under current judicial orders, is [the Appellant] able to access his

¹ The ECL is a University-based center within the College of Education’s Department of Early Childhood, Special Education, and Counselor Education that operates as a licensed child care facility.

son's records" at the ECL. Arguing that the Appellant is not permitted to obtain such records, the University provides a copy of a temporary custody order, which states that the child's mother "shall exercise sole decision-making authority on behalf of the minor child regarding childcare and medical decisions." The University acknowledges that "there is nothing in the order that explicitly says [the Appellant] cannot access records of his child." However, it argues that the language giving decision-making authority to the child's mother "suggests that [the Appellant] cannot access records." The Office cannot agree.

At bottom, the University asks the Office to find that an order regarding temporary custody and decision-making authority with respect to a minor child *implicitly* restricts the Appellant's ability to obtain nonexempt records about his child through the Act. This the Office cannot do, especially when the University acknowledges that the order on which it relies is silent on the issue of the Appellant's ability to request and obtain such records. Simply put, the Office's authority in an appeal brought pursuant to the Act is limited to "stating whether the agency violated provisions of" *the Act*. KRS 61.880(2)(a). The Office has previously declined to substitute its judgment for that of Kentucky's circuit courts. *See, e.g.,* 25-ORD-231 (declining to determine the scope of a circuit court's protective order). Simply put, the Office declines to interpret the temporary custody order as prohibiting *sub silentio* the Appellant from obtaining records about his child.²

Accordingly, here, the University failed to comply with the Act by denying a request for records solely on the basis of a temporary custody order. Because the Appellant has not cited a specific exemption to disclosure *in the Act* and explained how that exemption applies to the withheld records, the University violated the Act.³

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court but shall not be named as a party in that

² Of course, the Fayette County Family Court could amend its custody order to address this issue. The Office declines to opine as to the propriety of it doing so.

³ The Office notes that the University originally cited KRS 61.878(1)(a), without explanation beyond a reference to the temporary custody order. KRS 61.878(1)(a) exempts from disclosure "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." The Office has previously noted that, in particular circumstances, an order in an unrelated civil action might support a finding that a request could constitute "a clearly unwarranted invasion of personal privacy." *See* 26-ORD-216 n.2 (noting that "a request seeking information about an individual who has an [interpersonal protective order] against the requester could constitute 'a clearly unwarranted invasion of personal privacy.'" Here, however, the University's original response did not explain how KRS 61.878(1)(a) applied to this request, nor has the University explained on appeal why disclosure of the records would be an unwarranted invasion of personally privacy.

action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
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Assistant Attorney General

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Distributed to:

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