



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

26-ORD-319

July 15, 2026

In re: Gail Bryan/Clark County Public Schools

Summary: Clark County Public Schools (“CCPS”) did not violate the Open Records Act (“the Act”) when it provided all records that were responsive to the Appellant’s request and when it did not produce records that were not responsive to the request.

Open Records Decision

On May 15, 2026, Gail Bryan (“the Appellant”) submitted a request to CCPS seeking “all records related to the investigation, administrative leave, disciplinary review, and/or non-renewal involving [the Appellant] from Robert D. Campbell Middle School within Clark County Public Schools” dated between May 1, 2026, and the date of her request. In response, the CCPS provided the Appellant with responsive records.

The Appellant then sent a follow-up communication to CCPS, stating that certain records were not provided and that some links in the records produced no longer worked. After receiving no further response from CCPS, the Appellant initiated this appeal.

First, the Appellant alleges that CCPS’s record production was incomplete because attachments to two emails were not provided by CCPS. However, on appeal, CCPS explains that those attachments were provided to the Appellant and identifies their locations within the initial record production. Because CCPS has explained that the identified records were, in fact, provided to the Appellant, there is no dispute for the Office to resolve.

Next, the Appellant asserts that she should have received more text messages related to investigation and that she should have received a particular individual’s witness statement. Regarding the witness statement, CCPS has supplemented its response and provided it to the Appellant. Therefore, any dispute as to that record is moot. *See* 40 KAR 1:030 § 6.

Regarding the text messages, CCPS states that it does not possess any text messages beyond what it has already provided to the Appellant. Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. See *Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the record does or should exist, then the public agency “may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341). A requester’s bare assertion that a public agency must or should possess the requested records is not adequate to make a *prima facie* case that the agency does, in fact, possess the records. See, e.g., 22-ORD-040. Rather, to make a *prima facie* case that the agency possesses or should possess the requested records, the requester must provide a statute, regulation, or factual support for that contention. See, e.g., 26-ORD-168; 21-ORD-177; 11-ORD-074.

The Appellant argues that it appears she has not received all records in the “thread” of text messages. In response, CCPS states that “all relevant messages have been provided” and “[a]ny other messages in the [thread] are unrelated to [the Appellant’s] request and relate to confidential student matters unrelated to her request.” Although it does appear to be the case that CCPS has not provided every message in the relevant text thread, the Appellant has not made a *prima facie* case that the withheld records are responsive to her request. Therefore, the Office cannot find that CCPS violated the Act when it did not produce them.

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 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
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

Veronica Bryan, Appellant

Dustin Howard, Clark County Public Schools, Superintendent

Latonia Bell, Clark County Public Schools, Administrative Assistant

Rebecca McCoy, Clark County Public Schools, Legal Counsel