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26-ORD-434

September 28, 2026

In re: Jill Frommeyer/University of Kentucky

Summary: The University of Kentucky ("the University") subverted the intent of the Open Records Act ("the Act") when it failed to issue its final response within its own self-imposed deadline.

Open Records Decision

On August 8, 2026, Jill Frommeyer ("the Appellant") submitted a request to the University for copies of records pertaining to her, including name variations and the animals she owns, including records of the University of Kentucky Veterinary Diagnostic Laboratory ("UKVDL"). On August 12, 2026, the University invoked KRS 61.872(5), stated the records were in active use or otherwise unavailable, described the searches and reviews still required, and gave an availability date of August 19, 2026. The University stated that it needed to search records from various departments, exclude privileged documentation, review records for FERPA and personal-privacy redactions, and exclude preliminary records. On August 28, 2026, the Appellant initiated this appeal, claiming that the University had not responded to her request as of August 20, 2026.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are "in active use, in storage or not otherwise available," but the agency must give "a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection." KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency's action if the "person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time."

On appeal, the University states it issued its final response on August 21, 2026. The University does not dispute that it did not respond on the date it originally said it would. The Office has consistently found that a public agency does not comply with KRS 61.872(5) when it notifies the requester of the earliest date on which requested records would be available but then misses its self-imposed deadline. *See, e.g.*, 25-ORD-086; 23-ORD-079; 21-ORD-011. Because the University missed its self-imposed deadline, it violated the Act.[1]

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Jill Frommeyer
Amy R. Spagnuolo
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[1] The merits of the University's August 21 response are not at issue in this appeal.