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-453

October 7, 2026

In re: James Orlick/University of Kentucky

Summary: The University of Kentucky ("the University") did not violate the Open Records Act ("the Act") when it denied a request for copies that did not precisely describe the public records requested, or when it denied a voluminous request for records because it would place an unreasonable burden on the agency.

Open Records Decision

On July 14, 2026, James Orlick ("the Appellant") submitted a nine-page request to the University, consisting of over 100 subparts, for copies of "records documenting communications and interactions between the University [and] Kentucky policymakers or external organizations" between January 1, 2023, and July 1, 2026, concerning three specific pieces of legislation, as well as "legislative proposals, draft legislation, policy discussions or communications occurring during 2024 concerning diversity, equity, and inclusion in Kentucky public postsecondary education that culminated in House Bill 4 (2025)." More specifically, the Appellant sought communications with certain legislators, legislative committees, and state agencies; communications with several policy organizations, federal government entities, or any "[r]egistered lobbyists," [l]obbying firms," "[o]utside legal counsel," or "[g]overnment relations consultants" concerning the three bills "or related legislative proposals, implementation, compliance, diversity, equity, and inclusion, institutional neutrality, academic freedom, or higher education governance"; "records documenting requests for information received" from legislators, legislative staff, or any entities previously listed; various types of "requests for technical assistance" from governmental entities; the University's responses to any such requests; "records documenting meetings, working groups, implementation committees, task forces, advisory groups, or preparation for meetings concerning the above-referenced legislation"; "records concerning [m]odel legislation[,] model policies[,] draft legislation[,] proposed statutory language[,] policy recommendations[,] issue briefs[,] white papers[,] research reports[,] legislative templates[,] policy memoranda[, and] implementation guidance received from, transmitted to, or evaluated by the

University" concerning the three bills "or related legislative proposals"; and "draft versions of responsive records."

The University denied the Appellant's request as "unreasonably burdensome" under KRS 61.872(6) on the grounds that it did not provide "the proper parameters to conduct the appropriate search." Alternatively, the University stated some responsive records would likely be exempt as "education records" under the Federal Educational Rights and Privacy Act ("FERPA") and KRS 61.878(1)(k), confidential attorney-client communications under KRE 503(b), protected health information under the Health Insurance Portability and Accountability Act ("HIPAA"), preliminary materials under KRS 61.878(1)(i) and (j), records containing personal information under KRS 61.878(1)(a), information made confidential by the Patient Safety and Quality Improvement Act ("PSQIA"), or confidential and proprietary information under KRS 61.878(1)(c)1. and 2.

On July 23, 2026, the Appellant submitted a revised request intended to "narrow" the scope of his request "in a manner that facilitates identification and production of responsive records." Specifically, the Appellant limited the subject matter to three specific pieces of legislation; changed the date range to January 1, 2024, through July 15, 2026; limited the request to electronic records maintained by the Office of the President or the Office of Government Relations; listed specific individuals, governmental entities, and outside organizations whose communications with the University were requested; and provided search terms that he stated would be sufficient to locate all responsive records. Further, the Appellant listed several types of records he was "not requesting," including records protected by FERPA, "protected health information," and "patient safety work product."

The University denied the Appellant's revised request on the same grounds as the first request, and also stated the request was "unreasonably burdensome" under KRS 61.872(6) because "the portion of [the] request that provided proper parameters resulted in 13,155 total pages." This appeal followed.[1]

When a person requests copies of public records under the Act, "[t]he public agency shall mail copies of the public records to a person . . . after he or she precisely describes the public records which are readily available within the public agency." KRS 61.872(3)(b). A description is precise "if it describes the records in definite, specific, and unequivocal terms." 98-ORD-17 (internal quotation marks omitted). This standard may not be met when a request does not "describe records by type, origin, county, or any identifier other than relation to a subject." 20-ORD-017

[1] The Appellant initiated this appeal on July 31, 2026, after the University's time to respond to the revised request had expired and no response had been received. Subsequently, the Appellant provided a copy of the University's untimely response dated August 3, 2026, to perfect an appeal from that response.

(quoting 13-ORD-077). Requests for any and all records "related to a broad and ill-defined topic" generally fail to precisely describe the records. 22-ORD-182; *see also* 21-ORD-034 (finding a request for any and all records relating to "change of duties," "freedom of speech," or "usage of signs" did not precisely describe the records); *but see Univ. of Ky. v. Kernel Press, Inc.,* 620 S.W.3d 43, 48 n.2 (Ky. 2021) (holding a request was proper when it sought "all records detailing [the] resignation" of a specific employee). A request that does not precisely describe the records "places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records." 99-ORD-14.

Here, the Appellant's first request was riddled with terms that did not describe identifiable types of records, such as "records documenting communications and interactions," "requests for information," "requests for briefings," "records documenting requests that the University . . . assist" certain entities with legislative proposals, and "records documenting meetings." A request that does not describe a recognizable type of record does not "precisely describe[ ] records which are readily available within the public agency," as required by KRS 61.872(3)(b). *See, e.g.,* 23-ORD-066 (finding a request for "cease and desist orders" did not describe a "recognized category of record created by" the agency); 20-ORD-017 (finding a request for "documents evidencing communications between" two agencies regarding certain subjects did not describe an identifiable type of record); 13-ORD-077 (finding a request for "records indicative of assistance" by an individual did not identify a specific class of records). A request that does not describe identifiable types of records is "so nonspecific as to preclude the custodian from determining what, if any, existing records it might encompass." 96-ORD-101.

Further, the Appellant's first request sought records pertaining to many vaguely defined topics, including "related legislative proposals, implementation, compliance, diversity, equity, and inclusion, institutional neutrality, academic freedom[,] higher education governance," "policy recommendations," "research reports," and "implementation guidance." Requests for records "related to a broad and ill-defined topic," coupled with vague descriptions of the type of records sought, can "lead to an incalculable number of records." 22-ORD-182.

Under the Act, a "requester is required to describe the records he or she seeks so as to make locating them reasonably possible." *City of Fort Thomas v. Cincinnati Enquirer,* 406 S.W.3d 842, 855 (Ky. 2013). In this case, the University asserts the terms of the request would require it "to search every physical and electronic record in the offices of the President, the Provost, the General Counsel, the Vice President for Research, the Vice President for Human Resources, the Vice President and Chief Strategy and Government Affairs Officer, the Vice President for University Relations and Chief Communications Officer, the Liaison to the Board of Trustees, the Former Vice President for Institutional Diversity, and any other office reasonably likely to

maintain responsive records." Even if it did so, the University claims, it could not be assured of locating all records responsive to the Appellant's first request due to its vague descriptions.

Moreover, the Appellant's request sought not only communications with specified individuals, but communications between the University and ill-defined classes of persons and entities, including several federal agencies; several private policy institutes; and unidentified "[r]egistered lobbyists," "[l]obbying firms," "[o]utside legal counsel," and "[g]overnment relations consultants." The University cannot be charged with knowledge of the identities of all individuals affiliated with the named and unnamed entities listed in the request. *See, e.g.,* 25-ORD-321 (finding the University "could not reasonably be expected to know" all "affiliated individuals" of various outside entities); 25-ORD-300 (finding the Kentucky State Police could not be charged with knowledge of the names and functions of members of an FBI task force). Thus, in light of the broad scope and vague terms of the Appellant's first request, the University did not violate the Act when it denied the request for failure to "precisely describe[ ] the public records which are readily available within the public agency" within the meaning of KRS 61.872(3)(b).

The second request, however, is a different matter. The Appellant limited the scope of his revised request to electronic records searchable by certain keywords, maintained by either the Office of the President or the Office of Government Relations, and pertaining to three specific bills introduced in the General Assembly. Additionally, the Appellant named all individuals and entities whose communications with the University he sought.[2] Nevertheless, the University denied this request as "unreasonably burdensome."

If a request for records "places an unreasonable burden in producing public records[,] the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence." KRS 61.872(6). "When determining whether a particular request places an unreasonable burden on an agency, the Office considers the number of records implicated, whether the records are in a physical or electronic format, and whether the records contain exempt material requiring redaction." 22-ORD-221. Of these, the number of records implicated "is the most important factor to be considered." 22-ORD-182. Thus, in 25-ORD-322, the Office found an unreasonable burden when a school district's electronic search located 11,482 emails and attachments containing a particular term, which would have to be reviewed for responsiveness and for redactions based on personal privacy, FERPA, attorney-client privilege, and preliminary materials subject to KRS 61.878(1)(i) or (j). Here, after performing only a partial search, the University located 13,155 pages of responsive

[2] The Appellant did not, as the University claims, merely identify the three bills and "then repeat[ ] his original request verbatim."

records, which it states must be reviewed for the same types of redactions. At the rate of one minute per page, review and redaction of these records alone would require over 219 hours, or approximately five and a half weeks of an individual employee's time at 40 hours per week.[3] As this burden is comparable to that determined to be unreasonable in 25-ORD-322, the University has met its burden of proof under KRS 61.872(6). Accordingly, the University did not violate the Act when it denied the Appellant's revised request.[4]

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/ James M. Herrick
James M. Herrick
Assistant Attorney General

#658

Distributed to:

James Orlick
William E. Thro, Esq.
Amy R. Spagnuolo

[3] Moreover, given the FERPA and privilege determinations required, an additional review by legal counsel would likely be necessary. *See, e.g.,* 14-ORD-109.

[4] Because KRS 61.872(3)(b) and (6) are dispositive of the issues on appeal, it is unnecessary to address the alternative arguments made by the University.