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26-ORD-490

October 30, 2026

In re: Jennifer Mortenson/Cabinet for Health and Family Services

Summary: The Cabinet for Health and Family Services ("the Cabinet") did not violate the Open Records Act ("the Act") when it abandoned its requirement that the requester complete a CHFS-305 form before it responded to a request for records.

Open Records Decision

On August 6, 2026, Jennifer Mortenson ("Appellant") submitted a request to the Cabinet seeking "quarterly [Department for Community Based Services] System Safety Review Reports created by the system safety review team to be presented to the safety action group for years 2023, 2024, 2025 and any reports created in 2026." In response, the next day the Cabinet stated that the Appellant must complete its CHFS-305 form because the Appellant had requested "confidential information." The Appellant responded the same day, disputing the Cabinet's statement that she had requested confidential information. Subsequently, the Cabinet issued its response on August 13, 2026, invoking KRS 61.872(5) and stating its final response would be issued by August 21, 2026. On that date, the Cabinet denied the request under KRS 61.878(1)(i) and (j). This appeal followed.

On appeal, the Appellant explains that she only challenges the Cabinet's initial August 7 response, which had instructed her to complete a CHFS-305 form and provide a copy of her photo identification before she would receive a response.

The Office has previously explained that the Cabinet does not violate the Act when it requires a requester to complete a CHFS-305 form to obtain copies of confidential records. *See* 23-ORD-160. The CHFS-305 form is not a form for the submission of requests to inspect records. Rather, it is a release to be completed by a person whose confidential information is contained within records that have been

requested. The Cabinet has promulgated the use of the form through administrative regulation. *See* 922 KAR 1:510. The necessity of the form is derived from KRS 209.140, which makes confidential "[a]ll information obtained by the department staff or its delegated representative, as a result of an investigation made" involving adult abuse under KRS Chapter 209.[1] Notwithstanding the broad confidentiality provisions of KRS 209.140, certain individuals may still have access to the records.

The Appellant correctly asserts that the Cabinet may not require a requester to complete a CHFS-305 form and provide photo identification when the records sought do not implicate KRS 209.140. Here, however, although the Cabinet initially purported to require the Appellant to take such actions, it abandoned that requirement when the Appellant correctly stated that she did not seek records that are confidential under KRS 209.140. Ultimately, despite the Cabinet's initial erroneous requirement that the Appellant complete its CHFS-305 form, the Cabinet issued a timely response to the request. Because it both abandoned its unlawful requirement and otherwise timely responded to the request, the Office has no basis to find that the Cabinet violated the Act.

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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

[1] KRS 209.140 is incorporated into the Act under KRS 61.878(1)(l), which exempts from inspection "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly."

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Distributed to:

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