

Kentucky Open Records and Open Meetings Acts:

Rules and Regulations

Purpose

Public policy requires “free and open examination of public records.” KRS 61.871. Accordingly, the Agency must respond effectively and efficiently to records requests in a consistent and coordinated manner. Therefore, this Open Records Policy (“Policy”) sets forth the standards for all Agency employees when a records request is received and ensures compliance with all applicable open records laws.

Applicability

This Policy supersedes any relevant policy that previously existed. All employees shall read this policy and complete the Policy Acknowledge Form to indicate that they have read, understand, and will comply with this Policy.

Policy

Records Custodian

The Agency shall designate an employee as its Records Custodian. The Records Custodian shall review the Kentucky Open Records Act, 200 KAR 1:020, and “The Kentucky Open Records & Open Meetings Acts: A guide for the public and public agencies” published by the Office of the Attorney General. The Records Custodian shall ensure compliance with the Kentucky Open Records Act, 200 KAR 1:020, this Policy, and all relevant requests.

The Office designates the following Records Custodian:

Name: Mrs. Donette Gaines

Title: Director of Student Support Services

Mailing Address: 1600 Highway 22 East, Owenton, KY 40359

Email Address: donette.gaines@owen.kyschools.us

Phone: 502-484-4009

Responding to Records Requests

All requests for copies or review of public records in the custody of the Agency must be made in writing. A request may be sent electronically to the Record Custodian’s email address identified above. Requests may also be mailed to the Agency or hand delivered to the Agency’s mailing address identified above.

The Records Custodian shall provide a response to the records request that is postmarked or electronically transmitted within five business days of the date the request is received. Notice promptly shall be sent to the requesting party if additional time is needed under KRS Chapter 61. When a response is delayed, the notice shall specifically indicate that additional time is required to process the request and explain the circumstances justifying additional processing time.

The Records Custodian shall determine whether the requester has reasonably described records within the possession of the Agency. If no such records are identified, the request may be denied on those grounds. However, if it is reasonably believed that another public agency is in possession of the records described in the request, the Records Custodian shall refer the requester to the appropriate records custodian, providing both their name and contact information. If it is determined that the records are within the Agency's possession, the Records Custodian shall gather them for processing. Records that are responsive shall be segregated from nonresponsive records (i.e., records that were not requested). The Records Custodian shall then examine responsive records to determine which records, if any, are exempt from disclosure and make appropriate redactions.

If the Records Custodian determines that the records request should be denied in whole or in part, the Records Custodian shall notify the requester with an explanation for the decision to withhold any responsive records, citing the specific exemption in statute as the basis for withholding. If any part of a request for records is denied, the Records Custodian shall confer with legal counsel to ensure accuracy in applying the law.

If the request places an unreasonable burden for producing public records, or if the Records Custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the Agency, the Records Custodian may refuse to produce the records upon conferring with legal counsel prior to denying the request.

Record Production and Fees

When responsive records are to be transmitted electronically to the requester, there is no charge to the requester. However, if the responsive material is more than 8 megabytes ("MB"), the documents will automatically be produced via compact disc ("CD") and mailed to the requester. Prior to mailing, the Records Custodian shall provide an invoice to the requester for the production and postage. The fee for each CD is \$.50, which is the actual cost of each blank CD based upon the total cost of all CDs in the package. A CD containing responsive records will be mailed upon receipt of payment.

When responsive records are to be mailed to the requester, the Records Custodian shall first provide an invoice to the requester for the production and postage. Printing

costs are \$0.10 per page, and additional fees shall be justified on any invoice. Copies of photographs, maps, and other such records shall be furnished to any person requesting them on payment of a fee equal to the Agency's actual cost to produce the copies. Estimated costs shall be communicated to the requestor before costs are incurred. After the invoice is paid, the Records Custodian shall produce the responsive records to the requester.

If the requester wishes to personally inspect responsive records at the Agency's headquarters, or the location where the records are maintained, the Records Custodian shall facilitate with the requester the scheduling of a convenient time and place for inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday. The Records Custodian, or an employee of the Agency, shall be present and personally monitor the inspection.

Additional Resources

Open Meetings Decisions and Open Records Decisions (OMDs and ORDs) issued by the Attorney General from 1993 to the present may be accessed on our website at <https://ag.ky.gov/Priorities/Government-Transparency/orom>. If you know the OMD or ORD number you wish to review, you may select the “Choose a year” option. For example, 04-ORD-216 may be accessed by selecting the year 2004 and scrolling through the decisions for that year until 04-ORD-216 is located. If you wish to review OMDs or ORDs relating to a specific subject, you may search by entering a query (for example, “work sessions,” “accident reports,” “timely access,” or “adequate notice”) in the search box that appears at the right-hand top corner of the screen. You may also access a particular ORD or OMD by typing the ORD or OMD citation (e.g., “04-ORD-216”) in the search box.

These additional resources will further enhance the public official’s understanding of his or her duties under the Open Meetings and Open Records Acts as well as related records management duties:

1. “Kentucky Open Meetings Open Records Laws: Statutes and Q&A”
<https://legislature.ky.gov/LRC/Publications/Documents/OpenMtgsRecords.pdf>
2. Local Records Retention Schedules
<https://kdla.ky.gov/records/retentionschedules/Pages/LocalRecordsSchedules.aspx>
3. State Records Retention Schedules
<https://kdla.ky.gov/records/retentionschedules/Pages/stateschedules.aspx>
4. “Understanding Records Management. Kentucky Department of Libraries and Archives,” <https://kdla.ky.gov/records/recmgmtguidance/Pages/default.aspx>
5. Kentucky Revised Statutes Chapter 61 KRS 61.800 – 61.850, Kentucky Open Meetings Act KRS 61.878 – 61.884, Kentucky Open Records Act
<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37294>
6. “Attorney General Advisory: Changes to the Open Records Act and Open Meetings Act following the Regular Session of the 2021 General Assembly,”
<https://ag.ky.gov/Documents/21.06.24%20-%20Open%20Records%20and%20Open%20Meeting%20Advisory%20%28final%29.pdf>
7. “Standardized Open Records Request Form, OAG-01, June 2021”
https://ag.ky.gov/Documents/2021_Standardized_Open_Records_Request_Form_V3.pdf

Request to Inspect Public Records

Pursuant to the Kentucky Open Records Act (“the Act”), KRS 61.870 *et seq.*, the undersigned requests to inspect the public records which are described below.

Requester’s contact information.

Name: [REDACTED]

Mailing Address: [REDACTED]

E-mail Address (if applicable): [REDACTED]

Records to be inspected:

[REDACTED]

Statement regarding the use of public records. KRS 61.870(4) defines “commercial purpose” as “the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.” However, “commercial purpose” does not include the publication or related use of the public record by a newspaper or periodical, by a radio or television station in its news or informational program, or by use in the prosecution or defense of litigation by the parties to such an action or their attorney.

This request is (choose one):

- NOT for a commercial purpose; or
- FOR a commercial purpose.

Statement regarding residency. I further state that I am a resident of Kentucky because I am (please check one):

- An individual residing in the Commonwealth; or
- A domestic business entity with a location in the Commonwealth; or
- A foreign business entity registered with the Kentucky Secretary of State; or
- An individual that is employed and works at a location within the Commonwealth; or
- An individual or business entity that owns real property within the Commonwealth; or
- An individual or business entity that has been authorized to act on behalf of an individual or business entity listed above; or
- A news-gathering organization as defined in KRS 189.635(8)(b)1a. to e.

Signature: [REDACTED] Date: [REDACTED]