



Kentucky Department for Libraries and Archives Policy & Procedure Manual

Title: Open Records Requests and Records Retention Policy

Responsibility: Commissioner

Approved by: KDLA Leadership/Cabinet Legal

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Approved Date:

Policy:

The Kentucky Department for Libraries and Archives (KDLA) is subject to the Kentucky Open Records Act (KRS 61.870-61.884) and certain requirements regarding records retention.

Retained records

KDLA will maintain and retain its records in accordance with applicable laws and regulations. Unless otherwise provided by law, records will be retained or disposed of according to the Records Retention Schedules as adopted by the State Libraries, Archives, and Records Commission.

Public records

All records of KDLA are public records. Not all public records are open records under the Open Records Act. "Public record" means all documentary materials—regardless of format or storage medium—prepared, owned, used, in the possession of, or retained by the agency. It does not include any records owned by a private person or corporation that are in the possession of the agency or one of its employees.

Non-KDLA public records

Per 725 KAR 1:025, all records stored in the State Records Center (SRC) remain in the intellectual custody of the originating agency. The originating agency is the agency storing the records. Access to an agency's records is limited to authorized staff from that agency. Open records requests for these records will be directed to the originating agency.

Court case records from the Supreme Court, Court of Appeals, Circuit Court, and District Court may be housed in either the State Archives (Archives) or SRC. They are open records unless made confidential by statute or ordered sealed by a judge. Members of the public or agencies who wish to request court case records must contact the appropriate court for the record's location information. The requester may request the records directly from SRC or the Archives. Requests that are identified as "open records

requests” will be directed to the Administrative Office of the Courts’ (AOC) records custodian. Requests for a confidential or sealed record will be directed to the originating court.

Procedure:

Requests for records

The Commissioner (or designee) acts as Custodian for all the agency’s public records. Any resident of the Commonwealth may request to inspect or receive copies of the agency’s non-exempt public records. All requests to view or copy the agency’s public records pursuant to the Kentucky Open Records Act must be made in writing and must contain the requester’s name, signature, how the applicant is a resident of the Commonwealth under KRS 61.870(10), and a description of the documents that are being requested. If a requester is requesting to be provided with copies of non-exempt public records, they must provide a sufficiently precise description of the documents they are seeking to allow the Records Custodian to readily identify them.

All Open Records Requests must be submitted via U.S. Mail, facsimile transmission, email, or hand delivery. Open Records Requests made through any other means will not be honored. The requestor will be directed to make the request through one of the acceptable methods. Application forms for the inspection of the public records of this agency will be furnished on request to any person. Requesters may use the *Request to Inspect Public Records* form provided by the Office of the Attorney General but are not required to do so. Assistance in completing the application form will be provided by an employee on request. Open Records Requests should be directed to the attention of the agency’s Records Custodian:

Executive Secretary, Office of the Commissioner
Phone: 502-564-8303

Mailed requests must be addressed to:

Kentucky Department for Libraries and Archives
Office of the Commissioner
300 Coffee Tree Rd
PO Box 537
Frankfort, KY 40602-0537

Requests may be delivered in person to:

300 Coffee Tree Rd
Frankfort, KY 40601

Requests may also be delivered by fax to **502-564-5773** or emailed to KDLAOpenRecords@ky.gov.

Response

KDLA has five business days in which to respond to an Open Records Request. This time begins to run the next business day after the request is received.

The response to an Open Record Request may: (1) grant the request, (2) deny the request, (3) explain that there will be a delay in responding to the request, or (4) any combination thereof. To the extent a request is granted, the response will provide a timeframe when the requested non-exempt public documents may be inspected in person or will inform the requester of the applicable copying charge and postage fee required to be paid before copies of the non-exempt public documents may be provided. To the extent a request is denied, the response will provide a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. To the extent the full response to a request is delayed, the initial response will give a detailed explanation of the cause for any delay and an estimate of when a complete response may be expected.

On-site examination of records

To the extent a request is granted, individuals requesting to review records will be allowed to schedule a time to conduct on-site inspection of non-exempt public records during the regular office hours at KDLA – 9 AM to 4 PM, Monday through Friday. An on-site inspection may be required by the agency if the request is not precise in nature. Public records must be inspected in the location set by the agency. During their inspection, a requester may copy non-exempt public records (at the requester's cost), but may not remove, alter, or add to documents provided for review. The agency is responsible for protecting the security of public records in its custody and may require that a staff member be present during any inspection or copying of its public records.

Copies

To the extent a request is granted, copies of the responsive non-exempt public records requested may be provided at a cost of \$0.10 per page, along with any applicable postage costs, all of which must be pre-paid by the requester. Requests for specialized or non-standard copies (e.g. color or oversized copies) will be provided at the cost incurred by KDLA to produce them. Copies of nonwritten records (photographs, maps, etc.) shall be furnished on request, on payment of a charge equal to the actual cost of producing copies of such records by the most economic process not likely to damage or alter the record. KDLA may also recover costs associated with staff time expended in responding to a request made for a commercial purpose. Non-public or exempt information may be redacted as appropriate from copies of otherwise non-exempt public records provided.

Denial of request

Certain public records are exempt from inspection under the Open Records Act, and requests to inspect or receive copies of these records will be denied. Circulation and library use records for individual patrons are shielded from release under various opinions of the Attorney General relating to the Open Records Act. Requests for these records are subject to denial at the discretion of the Records Custodian.

Under certain circumstances, KDLA may find that a request would create an unreasonable burden to comply with and may deny such a request for that reason. Requests that the agency believes are intended to disrupt its essential functions will also be denied. Reasons that a request may be deemed unduly burdensome or disruptive may include excessive time and expense involved in retrieving and duplicating the records, or in the type and nature of the request.

To the extent a request is denied, the response will provide a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.

Destruction of Records

KDLA destroys documents regularly as a part of its record retention schedule. Once a document has been retained for a sufficient time to satisfy its retention period, it is subject to destruction. The agency's Records Custodian ensures that the schedule of retention and destruction of records is maintained.

A Records Destruction Certificate will be completed and filed with the Kentucky Department for Libraries and Archives' Division of Archives and Records Management whenever documents are destroyed according to the retention schedule.

References

Kentucky Open Records Act KRS 61.870-61.884

725 KAR 1:025

Publications and other information from the Office of the Attorney General regarding Open Records Requests, including *The Kentucky Open Records & Open Meetings Acts: A guide for the public and public agencies* and the *Request to Inspect Public Records* form: <https://ag.ky.gov>.