

Administrator's Guide to Open Records Requests

In 1976 the General Assembly enacted the Open Records Act [[KRS 61.870](#) to [KRS 61.884](#)] to provide access to public records. This law ensures the public's right to know how governmental agencies operate.

This overview of the Open Records Requests process highlights the basic information needed by library staff and trustees to comply with this law. It is not legal advice. If you need legal advice, please contact an attorney.

1. Each new **Trustee should receive a copy of [Your Duty Under the Law](#) and [Managing Government Records](#)** within 60 days of their appointment. These documents are available online at: <https://ag.ky.gov/orom/Pages/alert.aspx>.
 - a. The Trustee should sign a *Proof of Receipt* form found online at: <https://ag.ky.gov/orom/Documents/Proof-of-Receipt.pdf>.
 - b. This form should be kept on file in the library and a copy provided to the County Judge/Executive.
 - c. The Trustee can become familiar with the requirements of the Open Records Act by reading the first 12 pages *Your Duty Under the Law*.
2. The Library Board should **appoint an official custodian** of the library's records. This duty is usually delegated to the Library Director.
3. The library must **adopt a set of rules and regulations** that conform with the provisions of the Open Records Act on how a request will be handled that will:
 - a. Provide full access to non-exempt (i.e., open) public records;
 - b. Protect records from damage and disorganization;
 - c. Prevent excessive disruption of essential Library functions;
 - d. Provide assistance and information upon request to insure efficient and timely action in response to application for inspection;
 - e. These Rules and regulations must at least include:
 - i. The location and hours of the library's administrative offices;
 - ii. The name and title of the official custodian of the records;
 - iii. The fees charged for copies.
 - a) The Kentucky Attorney General in 11-ORD-166 has opined 10¢ per copy to be a reasonable fee.

- b) The Library may charge more if the records requested are going to be used for a commercial purpose – newspapers are not included in the commercial-purpose clause but still must be a “reasonable” charge.
 - c) The Library may charge enough to recoup the cost of color, non-standard-size copies, or mailed copies but must be able to prove the cost for copies exceeded 10¢ per copy.
 - iv. The procedures to be followed in requesting public records [see [Example Policies](#)].
- 4. A **notice** of the Library’s Open Records Rules and Regulations must be prominently posted in a public space in the Library. [See sample [Notice](#).]
- 5. The **requestor must submit the records request in writing** by mail, fax, or personal delivery to the Library.
 - a. The Library may have an official Open Records Request Form but they cannot force the requestor to use it. [See sample [Open Records Request Forms](#).]
 - b. Three things the Library can require are the name printed legibly, the signature and the exact records to be inspected.
 - c. If the request is sent by e-mail, the Library may choose not to honor it and if not should have a standard response notifying the requestor to resubmit the request in person, by mail, or by FAX.
 - If possible the response should also be sent to the requestor by U.S. Mail.
 - d. If the requestor lives or works in the County, the Library may require that she come to the Library to inspect the requested documents.
- 6. The Library must **respond to the Records Request within 3 business days**.
 - a. The first day is the day after the request is received.
 - b. Saturday, Sunday and legal holidays are not counted as part of the 3-day deadline.
 - c. A sample [response letter](#) is available.
- 7. The **Library must provide a suitable place** for the requestor to inspect the records.
 - a. Pull the required records from the file;
 - b. Allow them to inspect the records in the meeting room or another location that is appropriate;
 - c. The Official Custodian or a delegated staff member should remain with the records during the requestor’s examination to ensure that records are not removed, damaged, and that nothing is added to or changed in the records.

8. **Not all personnel records are exempt** from Open Records requests.
 - a. Information that must be provided if part of an Open Records Request include:
 - i. Name, position, work station, and salary of public employees;
 - ii. Portions of public employees' resumes reflecting relevant prior work experience, educational qualifications, and information regarding ability to discharge responsibilities of public employment;
 - iii. Reprimands to employees regarding job-related misconduct;
 - iv. Letters of resignation submitted by public employees;
 - v. Employee timesheets.
 - b. Note that a request for information does not obligate the Library to provide that information.
 - An example of this would be a request asking, "How much are Library employees paid?" versus a request asking, "Please produce copies of the Library's payroll records."
 - c. Other non-exempt records include:
 - i. Lawsuit settlement documents;
 - ii. Records reflecting improper use of public equipment;
 - d. This list of exemptions is not exhaustive but include the ones most likely to be relevant in library business.
9. **Personnel information that IS exempt** from Open Records Requests includes:
 - a. Home address, social security number, medical records, and marital status of public employee;
 - b. Race and gender of public employees;
 - c. Applications and resumes from unsuccessful applicants for state jobs;
 - d. Employee evaluations;
 - e. Home address and social security numbers of private citizens in agency files;
 - f. Medical records; these should be filed separately from an employee's personnel file.
10. Again this list of exemptions is not exhaustive and **other exemptions may be allowed**, such as:
 - Public or private records having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency to the extent that nondisclosure is requested in writing by the donor or depositor of such records.

11. **When a record contains both exempt and non-exempt information**, it does not allow the entire request to be denied.
 - Information that is exempt should be masked or separated from the non-exempt record and the requested record released for inspection.

12. **Libraries are not prohibited or need to limit the exchange of public records** or the sharing of information with other libraries when the exchange is serving a legitimate governmental need.
 - If a library wants to know if another library has a patron in good standing, the exemptions would not prohibit this exchange of information.

13. **No one can demand instant access** to the records
 - a. You have three days in which to REPLY to the request, it does not even have to be furnished within that time frame.
 - b. A library can take a reasonable amount of time to gather and prepare the records for inspection.

14. **A requestor may file a complaint in writing with the Attorney General** for an opinion if he feels that access has been denied to any open records or that the library has not handled the request properly.

15. Open Records **Decisions made by the Attorney General are legally binding** on the parties if not appealed within 30 days.
 - a. Refusal to provide the requested records must be supported by clear and convincing evidence as to the legality of the refusal.
 - b. State agencies cannot be penalized for releasing exempted documents, but there may other liabilities that exist for releasing some types of private information.
 - c. ORDs (Open Records Decisions) from 1993 to the present may be found online at: <https://ag.ky.gov/honest-government/open-records-open-meetings-decisions>.

16. **Train front line staff** on the Open Records Request procedure and make the Open Records Request Form readily available to them.
 - a. Knowledgeable and helpful staff will make a good impression on the person filing the request while efficiently handling their request.
 - b. Transparency will be an obvious goal of the Library when all staff know what to do when the Director or Official Custodian of the records is unavailable.