Mercer County Senior High School
School Based Decision Making Council
Meeting Agenda

July 18, 2023
4:00 pm

Members:

Spencer Tatum, Principal & Chair
Ekambaram Elumalai, Teacher Representative
Kendra Rowland, Teacher Representative
Andrew Ashford, Teacher Representative
Todd Davis, Parent Representative
Jessica Sanders, Parent Representative
Mike Floro, Council Secretary

Opening Business

- Welcome
- Agenda Approval
- June Minutes
- Good News Report

Behavior/PBIS Report

Academic Progress Check

Budget Report

New Business

- Job postings update
- Selection of vice chair
- School opening update
- Required documents
- SBDM trainings
- 2023-24 Student Handbook
- 2023-24 Title Allocations
- Principal Selection - Consultation policy 2nd reading
- Curriculum policy 2nd reading
- Upcoming dates/events

Public Comment

Set time & date for next meeting

Adjourn

Mercer County Senior High
SBDM Council
Regular Monthly Meeting
June 12th, 2023 – Draft Minutes

The meeting was called to order by Mr. Tatum at 4:05 p.m. in the Media Center. The following members of the council were in attendance:

Present :	**Absent**:
Spencer Tatum, Principal Kendra Rowland, Teacher Ekambaram Elumalai, Teacher Andrew Ashford, Teacher John Huffman, Parent Patrick Branam, Parent Mike Floro, SBDM Secretary	

Agenda Approval

Motion to accept: K. Rowland, second by J. Huffman
Motion was approved by consensus.

Minutes Approval

May Minutes were reviewed by the council.

Motion to accept: A. Ashford, second by Dr. Eka
Motion was approved by consensus.

Good News Report

- The FFA banquet was held on May 18th to honor our students.
- Baccalaureate was a great success at Carpenter's Christian Church.
- Whitaker Bank sponsored our Senior Picnic at the ROC.
- Our seniors participated in a "Senior Titan Walk" at MCES and MCIS on the last day of school.
- Graduation was held on May 27th and we had 140 students receive their diploma.
- Project Graduation was held at Malibu Jack's in Lexington.
- The FFA sent numerous students to the FFA State Convention the week of June 5th. The Food Science team of Alena Trent, Emily Chunglo, Shelby Ramey, and Naomi Martin finished 4th with Emily Chunglo being the highest individual in the state for this contest.
- Emily Chunglo placed 2nd in the state in Extemporaneous Speaking.
- Emily Chunglo was selected to serve as a Kentucky FFA Foundation Ambassador.
- Shelby Ramey earned a Kentucky FFA State Degree.
- Sara Dunn won a match at the state tennis tournament and advanced to the round of 32.
- Evan Hart was named the 12th region baseball player of the year, 1st team All-State, and the Gatorade Player of the Year in the state of Kentucky.
- Baseball team won the 46th District Championship for the fourth year in a row and hosted the 12th Region baseball tournament.

- The boys and girls track teams won the Class 2A, Region 5 track and field meet at Boyle County High School.
- The boys track team won the STATE CHAMPIONSHIP in 2A for the 3rd straight year.
- The girls track team placed 3rd in the state track meet.
- Jordan Piazza won the state championship in the 110M Hurdles.
- Teigh Yeast won the state championship in the 100M Dash.
- Teigh Yeast won the state championship in the 200M Dash.
- Teigh Yeast won the state championship in the 400M Dash.
- Teigh Yeast won the state championship in the Triple Jump.
- Beau Brown won the state championship in the 100M Dash.
- Beau Brown won the state championship in the 200M Dash and set a state record.
- Beau Brown won the state championship in the 400M Dash and set a state record.
- Thaddeus Mays won the state championship in the Triple Jump.
- Hayden McGuire and Alex Bradley won the state championship in the Mixed Unified 2x50M relay.

Monthly Reports

Behavior:

- PBIS data and charts were presented (see SBDM packet). Data shows 582 major referrals and 380 minor referrals (962 total) from the start of school through 6/8/23. 9th grade had 405 referrals, 10th grade had 351 referrals, 11th grade had 80 referrals, and 12th grade had 126 referrals.

Academic:

- Summer scheduling is taking place this month. Counselors are working on finishing up scheduling and those should be ready to go "live" to students by the 2nd week of July.
- Summer School concluded on Friday June 9th. We had 57 students attend. 103 failed core courses were recovered.

Budget:

- Section 6 - $3,762.03
- District Activity Accounts - $447,587.00
- Student Activity Accounts - $40,006.00

Staffing Update:

- Special Education Teacher #1 - hired Susan Rogers
- Special Education Teacher #2 - hired Brittany Hampton
- Health/PE (weight lifting) - hired Tyler McFarland
- Biology - still open, Mr. Tatum plans on holding off to see if we get more applicants.
- Physical Science - still open, Mr. Tatum plans on holding off to see if we get more applicants.
- English - still open, Mr. Tatum plans on holding off to see if we get more applicants.
- Behavior Instructional Assistant - still open, Mr. Tatum plans on holding off to see if we get more applicants.

Old Business

None

New Business

- Mr. Tatum discussed staffing updates (see section above)
- The 2023-24 SBDM Meeting dates were presented to council. Future SBDM meetings will take place in the media center instead of the conference room due to the location change of the guidance office.
- Mr. Tatum presented to council the 2023-24 SY MCSHS Emergency Management plan for its 2nd reading.
    - In the re-unification plan, Mr. Branam suggested not putting students in a fenced in area. He said by making this change, you would allow students to still have the ability to scatter and run if they needed to.
    - Council was asked to consider putting in something in the plan about having a pulse/ox meter and narcan locations.
    - Mr. Branam offered to do Narcan training for MCSHS staff if needed.
    - It was suggested to add a helicopter landing area for football fields.
    - It was suggested to research Event Management courses offered from UK for the HS admin staff and district athletic administration.

Motion to accept: P. Branam, seconded by A. Ashford
Motion was approved by consensus

Policy Reviews:

Committee Policy (2nd Reading)

- No Changes

Motion to accept: K. Rowland, seconded by J. Huffman
Motion was approved by consensus

Extra Curricular Program Policy (2nd Reading)

- No Changes

Motion to accept: A. Ashford, seconded by Dr. Eka
Motion was approved by consensus

Principal Selection Policy (1st Reading)

- No Changes

Motion to accept: K. Rowland, seconded by Dr. Eka
Motion was approved by consensus

Curriculum Policy (1st Reading)

- Make grammatical corrections in the first sentence.

Motion to accept: K. Rowland, seconded by J. Huffman
Motion was approved by consensus

Upcoming dates/events:

June 12	SBDM 4:00 pm
June 20	Board meeting 5:30 pm
June 25-July 9	KHSAA Dead Period
July 18	SBDM 9:00 am
July 18	Board meeting 5:30 pm
July 25	Titan Academy/Senior Seminar
July 31-August 1	Titan Academy/Freshman Orientation
August 7	MCSHS Open House 5:00 - 7:00 pm
August 9	1st Day of School

Public Comments
None

The next regular monthly meeting will be July 18th at 9:30 a.m in the media center. The SBDM council was adjourned at 5:17 p.m. The motion was made by P. Branam and seconded by A. Ashford. Motion was approved by consensus.

Submitted by Mike Floro, recording secretary

Good News Report – July 18, 2023

- Fall sports practices are underway for football, boys and girls soccer, boys and girls cross country, boys and girls golf, volleyball, and cheerleading
- Freshman orientation is scheduled for July 31st.
- Senior Seminar is scheduled for August 4th.
- Open House is scheduled for August 7th from 5:00 - 7:00 pm.
- First day of school for students is August 9th and our new dismissal time is 2:45 pm.

2023-24 SECTION 6 & 7 ALLOCATION & BUDGET

The Budget shown below was approved on April 17, 2023 by the

SBDM Council of Mercer County Senior High School

	2023-24
ADA	725.28
Section 6 Per Pupil	$ 139.33
Section 6 Allocation	***$ 101,053***
Custodial Supplies Per Pupil	$ 16.00
Custodial Supplies Allocation	***$ 11,604***
School Supplies Per Pupil	$ 25.00
School Supplies Allocation	***$ 18,132***
Total Section 6 & 7 Allocation	***$ 130,790***

PROJECT CODE: 015S ***Budget Amount:***

REGULAR INSTRUCTION ORG CODE: 0151118 ***$ 101,053***

OBJECT CODE	OBJECT CODE DESCRIPTION	2023-24 BUDGET
0113	OTHER CERTIFIED	**$425**
0120	CERTIFIED SUBSTITUTE PAY	**$1,800**
0130	CLASSIFIED REGULAR SALARY	
0131	CLASSIFIED ADDITIONAL PAY	
0150	CLASSIFIED SUBSTITUTE PAY	
0221	EMPLOYER FICA CONTRIBUTION	
0222	EMPLOYER MEDICARE CONTRIBUTION	**$50**
0231	TRS EMPLOYER CONTRIBUTION	**$75**
0232	CERS EMPLOYER CONTRIBUTION	
0253	KSBA UNEMPLOYMENT INSURANCE	**$25**
0338	REGISTRATION FEES	**$3,500**
0347	SECURITY SERVICES	
0349	OTHER PROFESSIONAL SERVICES	**$500**
0444	COPIER RENTAL	**$15,000**
0531	POSTAGE	**$2,750**
0532	TELEPHONE	**$1,750**
0539	OTHER COMMUNICATION	
0542	NEWSPAPER ADVERTISING	
0549	OTHER ADVERTISING	
0580	TRAVEL	**$3,500**
0610	GENERAL SUPPLIES	**$50,000**
0641	LIBRARY BOOKS	**$2,000**
0643	SUPPLEMENTARY BKS/STUDY GUIDES	**$100**
0650	COMPUTER RELATED SUPPLIES	**$4,000**

0810	DUES & FEES	$2,500
0899	OTHER MISCELLANEOUS	$13,078
	TOTAL BUDGET FOR INSTRUCTION	**$ 101,053**

Budget Amount:

STUDENT SUPPLY ORG CODE: 0151918 ***$ 18,132***

OBJECT CODE	OBJECT CODE DESCRIPTION	2023-24 BUDGET
0610	GENERAL SUPPLIES	$18,132
	TOTAL BUDGET FOR STUDENT SUPPLIES	**$ 18,132**

Budget Amount:

CUSTODIAL ORG CODE: 0151987 ***$ 11,604***

OBJECT CODE	OBJECT CODE DESCRIPTION	2023-24 BUDGET
0610	GENERAL SUPPLIES	$11,604
	TOTAL BUDGET FOR STUDENT SUPPLIES	**$ 11,604**
	GRAND TOTAL for BUDGET EXPENDITURES	*$ 130,789*
	REMAINING	*$ 1*

Budget due to Finance Officer by Friday, April 14, 2023

Additional Code Needed:

OBJECT CODE	OBJECT CODE DESCRIPTION	2023-24 BUDGET

158.183 Prohibited acts by students -- Rights of student -- Duties of local board of education -- Administrative remedies.

(1) Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, a student shall have the right to carry out an activity described in any of paragraphs (a) to (j) of subsection (2) of this section, if the student does not:

(a) Infringe on the rights of the school to:

1. Maintain order and discipline;
2. Prevent disruption of the educational process; and
3. Determine educational curriculum and assignments;

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

(2) Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, and subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

(a) Pray or engage in religious activities in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, speak on, or engage in nonreligious matters alone or with other students in the public school;

(b) Express religious or political viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious or nonpolitical topics or subjects in the school;

(c) Express religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments free from discrimination or penalty based on the religious or political content of the submissions;

(d) Speak to and attempt to discuss religious or political viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious or nonpolitical viewpoints with other students. However, any student may demand that this speech or these attempts to share religious or political viewpoints not be directed at him or her;

(e) Distribute religious or political literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious or nonpolitical topics or subjects in the school;

(f) Display religious messages on items of clothing to the same extent that a student is permitted to display nonreligious messages on items of clothing;

(g) Access public secondary school facilities during noninstructional time as a member of a religious student organization for activities that may include prayer, Bible reading, or other worship exercises to the same extent that members of nonreligious student organizations are permitted

access during noninstructional time;

(h) Use school media, including the public address system, the school newspaper, and school bulletin boards, to announce student religious meetings to the same extent that a student is permitted to use school media to announce student nonreligious meetings;

(i) Meet as a member of a religious student group during noninstructional time in the school day to the same extent that members of nonreligious student groups are permitted to meet, including before and after the school day; and

(j) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

(3) Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall ensure that:

(a) 1. The selection of students to speak at official events is made without regard to the religious or political viewpoint of the student speaker;

2. The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and

3. If the content of the student's speech is such that a reasonable observer may perceive affirmative school sponsorship or endorsement of the student speaker's religious or political viewpoint, the school shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the school;

(b) Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations; and

(c) No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct these activities.

(4) Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall permit public schools in the district to sponsor artistic or theatrical programs that advance students' knowledge of society's cultural and religious heritage, as well as provide opportunities for students to study and perform a wide range of music, literature, poetry, and drama.

(5) No action may be maintained under KRS 158.181 to 158.187 unless the student has exhausted the following administrative remedies;

(a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;

(b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

(c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

(d) Only after the superintendent's investigation and action may a student or the student's parent or legal guardian pursue any other legal action.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 15, sec. 1, effective June 29, 2017. -- Created 1998 Ky. Acts ch. 294, sec. 3, effective July 15, 1998.

158.195 Display of national motto in public elementary and secondary schools -- Reading and posting in public schools of texts and documents on American history and heritage.

(1) (a) Beginning in the 2019-2020 school year, local boards shall require each public elementary and secondary school to display the national motto of the United States, "In God We Trust," in a prominent location in the school.

(b) The display required in paragraph (a) of this subsection may take the form of but is not limited to a mounted plaque or student artwork.

(c) For purposes of this section, "prominent location" means a school entryway, cafeteria, or common area where students are likely to see the national motto.

(2) Local boards may allow any teacher or administrator in a public school district of the Commonwealth to read or post in a public school building, classroom, or event any excerpts or portions of: the national motto; the national anthem; the pledge of allegiance; the preamble to the Kentucky Constitution; the Declaration of Independence; the Mayflower Compact; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; United States Supreme Court decisions; and acts of the United States Congress including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 82, sec. 1, effective June 27, 2019. -- Created 1992 Ky. Acts ch. 170, sec. 4, effective July 14, 1992.

The Kentucky Open Records & Open Meetings Acts:

A guide for the public and public agencies

Office of the Attorney General
Daniel Cameron, Attorney General



June 2020

This resource explains the procedural and substantive provisions of the Open Meetings Act, KRS 61.800 to 61.850, and the Open Records Act, KRS 61.870 to 61.884, and contains basic information about the Acts. Under KRS 15.257(1), the Office of the Attorney General distributes this written information to assist the public in understanding the Open Meetings and Open Records Acts, and public officials in complying with the Open Meetings and Open Records Acts.

The Office of the Attorney General welcomes suggestions for improvements to this work, as well as ideas for future publications. Comments may be sent to the Attorney General's Office, 700 Capital Avenue, Frankfort, Kentucky 40601, or to our website, https://ag.ky.gov/.

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June 29, 2020

Dear Fellow Kentuckians:

Enclosed is the 2020 Guide to the Kentucky Open Records and Open Meetings Acts. I hope this updated guide is useful to citizens navigating the Acts and public officials who strive to comply with them.

In President Abraham Lincoln's Gettysburg Address, he spoke of our government as one that is "of the people, by the people, and for the people." This famous description underscores the importance of a government that is beholden to the people. For that to occur, government must be accessible to the people.

The Kentucky Open Records and Open Meetings Acts are two important means by which the citizens of this great Commonwealth can access their government, and government officials can maintain transparency for the citizens they serve. State law vests our office with the authority to oversee compliance with the Open Records and Open Meetings Acts to ensure Kentuckians have full access to their government. I take that responsibility seriously and will uphold the law without fear or favor.

As the Chief Law Officer for the Commonwealth, transparency is a top priority for our administration, and we will continue to work diligently each day to promote government transparency and accessibility for all Kentuckians.

Should you have any questions about this brochure, do not hesitate to contact our office by visiting http://ag.ky.gov or by calling (502) 696-5300.

Sincerely,

Daniel Cameron
ATTORNEY GENERAL

TABLE OF CONTENTS

The Open Records Act 5

What are public records? 6

What is a public agency? 6

What are the general requirements of the Open Records Act? 7

Special types of requests and additional considerations 8

What is the procedure for inspecting a public record? 9

What records are exempt from public inspection? 11

What is the role of the Attorney General? 14

The Open Meetings Act 17

What is a public meeting and what is a public agency? 17

What is public business? 18

What are the general requirements of the Open Meetings Act? 19

What subjects may be discussed in a closed session? 22

Additional considerations for entering closed session 23

What is the role of the Attorney General? 24

Special Considerations during the State of Emergency 26

Sample Forms – Open Records 28

Sample Forms – Open Meetings 31

Sample Rules and Regulations 34

The Open Records and Open Meetings Acts:

Kentucky's laws on open records and open meetings affect every public agency. It is important that a public agency is prepared to deal with the array of legal questions that arise under those laws. This resource provides an analysis of the Open Records and Open Meetings Acts and is designed to assist the public in understanding the Open Meetings and Open Records Acts, and public officials in complying with the Open Meetings and Open Records Acts. It contains a description of the general requirements of the laws, the procedures that must be followed in implementing them, the exemptions a public agency may invoke in appropriate circumstances, and the role of the Attorney General in interpretation and enforcement. This resource also provides new information related to temporary changes to the Open Records and Open Meetings Acts under the state of emergency related to the novel coronavirus. Because the Attorney General's Office acts as an impartial tribunal in open records and open meetings appeals, we cannot advise the public, public agencies, and public officials on how to deal with specific situations.

The Open Records Act

In 1976, the General Assembly enacted the Open Records Act, KRS 61.870 to KRS 61.884, which establishes a right of access to public records. The General Assembly recognized that the free and open examination of public records is in the public interest. KRS 61.871. The General Assembly has also recognized that there is an essential relationship between proper records retention and management and records access. KRS 61.8715. All public records, whether they are stored electronically or in physical form, must be open for inspection unless the records are exempted by one or more of the sixteen exemptions found in the Act. All public agencies are required to make nonexempt public records available to any requester, and to provide suitable facilities for exercise of the right of inspection. A public agency may not consider the requester's identity or purpose in seeking access to public records. However, as will be explained, a public agency may require a person to declare whether the records will be used for a commercial purpose and, if so, the public agency is permitted to shift the costs of production onto the requester.

What are public records?

The Open Records Act provides an expansive definition for public records. They are "all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics." KRS 61.870(2). The Open Records Act applies to any of the foregoing types of records that are "prepared, owned, used, in possession of or retained by a public agency." KRS 61.870(2). The term "public records" includes all such records, even if the public records are not subject to inspection under one of the sixteen exemptions provided in KRS 61.878(1). Public records include:

- Emails, databases, and other electronic records.
- Records that are not maintained on the agency's premises.
- "Booking photographs and photographic record of inmate," which is defined under KRS 61.870(9) as "a photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image of an inmate taken pursuant to KRS 196.099." However, KRS 61.8746 prohibits a person from using a booking photograph in a publication, or posting it on a website of booking photographs or official inmate photographs, if removal of the photograph requires payment of a fee.

What is a public agency?

The Open Records Act only applies to "public agencies" as defined in KRS 61.870(1). Public agencies include:

- state and local government officers, departments, and legislative bodies;
- county and city governing bodies, school district boards, special district boards, and municipal corporations;
- state or local government agencies created by statute or other executive and legislative acts;
- bodies created by state or local authority in any branch of government;
- bodies that receive at least 25% of their funds from state or local authority, within any fiscal year, excluding funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained by a public procurement process;

- an entity where the majority of its governing body is appointed by a public agency;
- agencies created and controlled by public agencies; and
- interagency bodies of two or more public agencies.

What are the general requirements of the Open Records Act?

Suitable facilities. Each public agency must make suitable facilities available for persons who wish to exercise the right to inspect nonexempt public records. KRS 61.872(1).

Time for inspection. First, a person must describe the public records. Each public agency must permit inspection of nonexempt public records during the agency's regular office hours. KRS 61.872(3)(a). Agencies must, upon request, mail copies to a person whose residence or principal place of business is outside the county in which the records are located if the requester has "precisely described" the requested records and the records are readily available. KRS 61.872(3)(b). The agency may require advance payment of copying fees and the cost of mailing. KRS 61.872(3(b).

Official custodian. Each public agency must appoint an official custodian of the agency's records. The official custodian is "the chief administrative officer or any other officer or employee of the agency who is responsible for the maintenance, care, and keeping of the agency's records, regardless of whether the records are in his or her actual personal custody and control." KRS 61.870(5).

Rules and regulations. Each public agency must adopt rules and regulations in conformity with the requirements of the Open Records Act. KRS 61.876. The rules must conform to the requirements of the Act and be displayed by the agency in a prominent location that is accessible to the public. KRS 61.876(2). The rules and regulations shall include:

- the principal office of the public agency and its regular office hours;
- the title and address of the official custodian of records;
- the fees charged for copies;
- the procedures to be followed in requesting public records, including whether the public records custodian requires an application and the method of delivery under KRS 61.872(2).

The uniform rules and regulations adopted by the Finance and Administration Cabinet, which are found at 200 KAR 1:020, may be adapted for each agency's use. This brochure also contains sample rules and regulations at page 34.

Special types of requests and additional considerations

Requests for information and compiling information or creating documents. Under the Act, a public agency is not obligated to provide information in response to a request for information (*i.e.* "How much are the city's employees paid?"). A public agency is not required to compile information or to create a record that does not already exist in response to an open records request. However, a public agency must honor a request for existing public records containing the information sought (*i.e.* "Please produce copies of the city's payroll records for May."), unless the requested records are exempt. Even if a public agency receives a request for information, the agency must respond in writing within three business days stating that the Act does not require agencies to compile information or create a record.

Requests for producing records in a special format. If a public agency is asked to produce a record in a format other than the format in which it maintains the record, or to tailor the format to meet a request, the agency may, but is not required to, provide the requested format. The agency may then recover staff costs as well as any actual costs it incurs. KRS 61.874(3).

Agencies should consider these additional factors:

- A requester must be permitted to conduct on-site inspection of records if he or she expresses a desire to do so, even if the public agency prefers to honor his or her request by delivery of copies through the mail.

- Public agencies must permit on-site inspection during regular office hours and no other restriction on hours of access may be imposed.

- The absence of the public agency's official records custodian does not extend the agency's response time; the agency should designate an acting custodian to ensure a timely response.

- Masking or redacting exempt information contained in an otherwise nonexempt public record is not equivalent to records creation. An agency is required to bear the costs and separate exempt information from non-exempt information and provide the requester the non-exempt portions of the records. KRS 61.878(4).

What is the procedure for inspecting a public record?

Request to inspect records. A request to inspect records must be made to the public agency's official custodian of records. The custodian may require that the request be in writing, signed by the requester, with his or her name printed legibly on it, describing the records to be inspected. KRS 61.872(2). An electronic signature is sufficient to meet this requirement. KRS 369.107. The custodian may require that the request be hand-delivered, mailed, sent via facsimile, or emailed to the agency. KRS 61.872(2). An agency that fails to establish the required method of transmission for accepting the request in its written policies required under KRS 61.876, may not impose *ad hoc* requirements.

Response to a request. The public agency must respond to the request in writing within three business days from the date it was received. If the request is denied, the response must include a statement of the specific exemption that authorizes the agency to withhold the record, and a brief explanation of how the exemption applies to the record withheld. KRS 61.880(1). The response must be issued by the official custodian or under his or her authority.

Application to wrong agency. If the public agency that receives the request does not have custody or control of the requested records, the agency must notify the requester and furnish the name and location of the official custodian of the appropriate agency's public records (*i.e.*, a request for the minutes of a school board meeting that was submitted to the fiscal court). KRS 61.872(4).

Record not available. If the requested record is in active use, in storage, or not otherwise available, the public agency must notify the requester in writing and indicate a place, time, and date for inspection not to exceed three days from receipt of the request. KRS 61.872(5). If the record cannot be produced within three days, the agency must notify the requester in writing and provide a detailed explanation of the cause for the delay. The agency must also state the earliest date on which the record will be available.

Unreasonably burdensome request. The public agency may refuse to permit inspection, or mail copies, if the request places an unreasonable burden on the agency in producing records or if the custodian believes that repeated requests are intended to disrupt the agency's essential functions. KRS 61.872(6). Refusal for either of these reasons must be supported by clear and convincing evidence.

Copies of records. A requester has the right to obtain copies of all nonexempt public records upon payment of a reasonable fee, including postage where appropriate. The agency may require prepayment for copies of records. Nonexempt public records must be made available for copying in either standard electronic or standard paper format, depending on the request, if the agency maintains the records

in both formats. KRS 61.874(2)(a). If the agency maintains the records in paper format only, it must make the records available in paper format. Agencies are not required to convert paper format records to electronic format.

The agency may prescribe a reasonable fee for making copies of nonexempt public records. The fee must not exceed the agency's actual costs of copying the record, including the cost of the medium on which it is copied and the cost of mechanically reproducing it, but not including staff costs. In general, ten cents per page has been deemed a reasonable fee for records in paper format. *See, e.g.*, 200 KAR 1:020 § 3. The fee should be stated in the agency's rules and regulations.

Commercial use. The Open Records Act authorizes public agencies to impose a higher copying fee for requests made for a commercial purpose. KRS 61.874(4). This higher fee may include the costs associated with staff time spent processing the request, which ordinarily cannot be charged. KRS 61.874(4)(c). Commercial purpose is defined as "any use by which the user expects a profit either through commission, salary, or fee," but excludes print or electronic media and attorneys representing parties in litigation. KRS 61.870(4). The agency may require any requester to certify whether the records will be used for a commercial purpose prior to producing the records. KRS 61.874(4)(b). As explained on page 5, commercial use of booking photographs or official inmate photographs is prohibited where the commercial user publishes or posts the photographs and requires payment of a fee for removal of the photographs from the publication or website.

Online access. A public agency may provide online access to public records in electronic format. The agency may require that the requester enter into a contract, license, or other agreement with the agency, and may charge fees. KRS 61.874(6). The fees cannot exceed the cost of physical connection to the system and the reasonable cost of computer time access charges. The following factors are additional factors an agency should consider:

- Public agencies may use a preprinted request form but cannot require use of the form or demand more information on the form than the statute allows (requester's name printed legibly, signature, description of records).

- A public agency's three-day response time begins to run on the first business day after the request is received.

- Denials based on an unreasonable burden to the agency or a belief that requests are intended to disrupt its essential functions must be supported by clear and convincing evidence; for example, the number of records requested, the estimated amount of time and expense to the agency to fulfill the request, and the duplicative nature of the requests.

- An agency may impose copying fees greater than ten cents per page only if a specific statute authorizes the agency to do so or the agency can prove that its actual copying costs are greater than ten cents per page. *Friend v. Rees*, 696 S.W.2d 325 (Ky. App. 1985)

- No fee may be imposed for inspecting public records. The fee is only associated with the costs for copying or staff time in the case of a commercial-use request.

What records are exempt from public inspection?

The Open Records Act permits a public agency to withhold certain records from a requester unless the requester obtains a court order directing their release. Under KRS 61.878(1), the following records may be exempt:

(a) records containing information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.

(b) records confidentially disclosed to an agency and compiled and maintained for scientific research.

(c) records confidentially disclosed to an agency or required by the agency to be disclosed to it which are generally recognized as confidential or proprietary and which if disclosed would permit an unfair commercial advantage to competitors, including records which are compiled and maintained in conjunction with an application for or the administration of a loan or grant; the application for or the administration of assessments, incentives, inducements, or tax credits; or the regulation of a commercial enterprise.

(d) records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth.

(e) records developed by an agency in conjunction with the regulation or supervision of financial institutions which reveal the agency's internal examining or audit criteria.

(f) real estate appraisals, engineering or feasibility estimates, and evaluations made by or for a public agency, in the course of acquiring property, until all of the property has been acquired.

(g) test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or

academic examination before the exam is given or if it is to be given again.

(h) records of law enforcement agencies or agencies involved in administrative adjudication investigating statutory or regulatory violations if disclosure of the records would harm the agency by premature release (such records may be inspected after enforcement action is completed or a decision is made to take no action, unless they were compiled and maintained by a county or Commonwealth's attorney or unless another exemption applies).

(i) preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency.

(j) preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended.

(k) public records that are prohibited from disclosure by federal law or regulation.

(l) public records that are prohibited from disclosure by Kentucky statutes.

(m) records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act, as defined in the exemption, and limited to eight precisely described categories of records.

(n) records having historic, literary, artistic, or commemorative value that are accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency if nondisclosure is requested in writing by the donor or depositor.

(o) records of a procurement process under KRS Chapter 45A or Chapter 56. This exemption shall not apply after a contract is awarded; or the procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited.

(p) Communications of a purely personal nature unrelated to any governmental function.

Under KRS 61.880(1), a public agency denying a request to inspect records under one of the above exemptions is required to specifically cite the applicable exemption and provide a brief explanation as to how the exemption applies to the specific records. If a request seeks different categories of records, and different exemption apply to different categories, the public agency must explain how each exemption applies to each category. For example, a public agency response that simply states, "Your request has been denied under the privacy exemption in KRS 61.878(1)(a) and the records are preliminary under KRS 61.878(1)(i) and (j)," without more, would be inadequate. The public agency must specify how a person's privacy interests are implicated, or why the record is preliminary.

Additional factors to consider when a public agency denies a request as exempt under KRS 61.878(1)

- If an agency relies on the exemption in KRS 61.878(1)(k) or (l), which exempt records required to be confidential under federal or state law, the agency must also cite the specific federal or state law requiring that the record remain confidential.

- The exemptions are "a shield and not a shackle" and an agency may elect to release records that are otherwise exempt except for records made confidential by federal or state law; an agency should also exercise caution before releasing records protected by the privacy exemption.

- A public agency employee is entitled to inspect any record that "relates" to him or her, even if the record is otherwise exempt, unless the requested record is part of an ongoing criminal or administrative investigation by the agency, the requested record is an examination, or the requested record is a record made confidential by federal or state law. KRS 61.878(3).

- Public agencies are encouraged to share otherwise exempt public records with other public agencies if the sharing of the records serves a "legitimate governmental need." KRS 61.878(5).

- A public agency cannot withhold a public record that contains both exempt and nonexempt information, but must mask or redact the exempt portion of the record and release the nonexempt portion of the record. KRS 61.878(4). As technology advances and agencies upgrade their records management systems, they are advised to consider their duty to separate exempt from non-exempt material when responding to open records requests. Foresight may save the agency considerable time in responding to open records requests.

- Although Commonwealth's and county attorneys' litigation records are permanently exempt from public inspection, Commonwealth's and county

attorneys are not relieved of their duty to respond to an open records request for those records, and cannot deny access to other nonexempt records of their offices (for example, contracts, payroll records, time sheets, travel vouchers).

What is the role of the Attorney General?

If a public agency denies a request for public records, the requester may file an appeal with the Attorney General for review of the agency's actions. The appeal consists of a letter describing the circumstances of the denial, a copy of the written request, and a copy of the agency's written denial, if the agency issued a denial. KRS 61.880(2). Unless the requester is an inmate confined in a jail or correctional facility, and he or she is aggrieved by a denial issued by the Kentucky Department of Corrections, KRS 197.025(3), the requester may bypass the Attorney General's Office and file an appeal in circuit court. KRS 61.882(2).

The Attorney General may request additional documentation from the agency, and may, in certain circumstances, also request a copy of the records in dispute. KRS 61.880(2)(c). The Attorney General will not, however, disclose those records.

The Attorney General will review the appeal and issue a decision stating whether the agency violated the Open Records Act. A public agency carries the burden of proof in sustaining its actions under the Act. KRS 61.880(2)(c). On the day the Attorney General issues the decision, the Attorney General will mail a copy to the agency and a copy to the person who requested the disputed records. The decision will be issued in twenty business days. This deadline may be extended an additional thirty business days under KRS 61.880(2)(b).

Both the requester and the agency may appeal the Attorney General's decision to the circuit court of the county where the agency has its principal place of business or where the record is maintained. KRS 61.880(5). The Attorney General shall be notified of any circuit court action, but shall not be named as a party in the action.

If an appeal is not filed within thirty days, the Attorney General's decision has the force and effect of law and can be enforced in circuit court. KRS 61.880(5)(b). If the requester prevails against an agency in circuit court, he or she may be awarded costs, including reasonable attorney fees, if the court finds that the records were willfully withheld. KRS 61.882(5). The court may also award the requester up to $25 for each day that the requester was denied the right to inspect the records. Under KRS 61.991, a public agency official may face criminal penalties for willfully concealing or destroying records with the intent to violate the Act. Officials who fail to produce records after entry of final judgment directing that records be produced may be found guilty of contempt.

Additional factors regarding the Attorney General's role

- The Attorney General will not consider an appeal that does not include a copy of the written request and the written denial, if the agency issued a denial. KRS 61.880(2)(a).

- Upon receipt of an open records appeal, the Attorney General will issue notification of the appeal and provide a copy of the appeal to the public agency against which the appeal was filed. The agency may respond in writing to the Attorney General; the agency must send a copy of its response to the individual who filed the appeal.

- Because the Open Records Act provides for judicial review of the issues raised in an appeal, the Attorney General will not reconsider an open records decision. 40 KAR 1:030 § 4.

- The Attorney General will consider an appeal moot, and decline to issue a decision, if the requested records are released to the requester after his or her appeal is filed but before an open records decision is rendered. 40 KAR 1:030 § 6. However, if the agency only partially produces requested records, by redacting or withholding some records as exempt under KRS 61.878(1), the appeal will not be considered moot.

- The Attorney General will consider an appeal based on the allegation that the public agency "subverted the intent of the Act short of denial of inspection," which may include appeals based on the imposition of excessive copying fees.

- Since 1992, open records decisions have been designated ORDs rather than OAGs because they are legally binding on the parties if not appealed.

- Because the public agency has the burden of proof to sustain its response under the Act, the courts have directed that the agency "provide particular and detailed information in response to a request for documents," and not just a "brief explanation." Although an agency may be able to meet its burden of proof on appeal, an initial response to the requester that fails to discharge the agency's duty is still grounds for finding a violation of the Open Records Act.

- The Attorney General's role in open records appeals is to issue a decision stating whether the public agency violated the Open Records Act. The Attorney General will not answer ancillary questions of law unrelated to the provisions of KRS 61.870 to KRS 61.884.

- The Attorney General does not enforce his decision by imposing penalties, nor may the Attorney General compel an agency to provide the requested records to the requester.

- A public agency that is dissatisfied with a decision must appeal the decision within thirty days. If the public agency fails to appeal the decision, the decision has the force and effect of law, the agency is legally bound by the decision, and the circuit court must enforce it.

The Open Meetings Act

In 1974, the General Assembly enacted the Open Meetings Act, KRS 61.800 to KRS 61.850, which establishes a right of access to public meetings. The General Assembly recognized that the formation of public policy is public business and should not be conducted in secret. KRS 61.800. The Act requires that all meetings of a quorum of the members of a public agency where public business is discussed, or action is taken, must occur in meetings open to the public, unless an exemption applies. KRS 61.810(1). Members of the public may attend any public meeting and a public agency may not require an individual to identify himself or herself to attend a public meeting. KRS 61.840. The courts have stated that the Open Meetings Act must be "interpreted most favorably to the public" since "failure to comply with the strict letter of the law in conducting meetings violates the public good."

What is a public meeting and what is a public agency?

The Open Meetings Act applies to all meetings held by state and local government agencies. Under KRS 61.805(2), the agencies covered by the Act include:

- state and local government boards, commissions, and authorities;
- state and local legislative boards, commissions, and committees;
- county and city governing bodies, councils, school district boards, special district boards, and municipal corporations;
- state and local government agencies, including policy making boards of educational institutions, that are created by state or local statute or other legislative act;
- bodies created by state or local statute or legislative act in the legislative or executive branch of government;
- an entity where the majority of its governing body is appointed by a public agency or state or local officer;
- any boards, commissions, committees, subcommittees, advisory committees, or ad hoc committees, which are established, created, and controlled by a public agency; and
- interagency bodies of two or more public agencies.

Subject to fourteen exemptions, all gatherings of a quorum of the members of a public agency at which public business is discussed or action is taken are public

meetings and must be open to the public, regardless of where they are held, and whether they are regular or special or informational or casual gatherings held in anticipation of a regular or special meeting. KRS 61.805(1); KRS 61.810(1).

Additional factors to consider regarding what constitutes a "public agency"

- The definition of "public agency" under the Open Meetings Act is narrower than the definition of "public agency" under the Open Records Act and does not include "state and local government officers" and bodies that receive "at least 25% of their funds from state or local authority funds;" this means, for example, that the mayor of a city is a public agency for open records purposes but not for open meetings purposes.

- A committee of a public agency, even if its function is purely advisory, is a public agency for open meetings purposes and a quorum of its members is calculated on the basis of the committee's membership and not the membership of the public agency that created it (the city commission, consisting of five members, creates a budget committee, consisting of three members–a quorum of the commission exists if three members are present and a quorum of the committee exists if two members are present); the committee must comply with all requirements of the Act.

What is public business?

The Open Meetings Act does not apply every time a quorum of a public agency gathers in the same place. The Open Meetings Act applies when a quorum of public agency members discuss public business or when an agency takes action. KRS 61.810(1). As explained by the Kentucky Supreme Court, "Public business is not simply any discussion between two officials of the agency. Public business is the discussion of the various alternatives to a given issue about which the [agency] has the option to take action." *Yeoman v. Com., Health Policy Bd.*, 983 S.W.2d 459, 474 (Ky. 1998).

Under this standard, the Attorney General has consistently held that discussions concerning meeting administration, such as when and where a special meeting will take place, or what will appear on the agenda, are not "discussions of the various alternatives to a given issue," and such discussions are not subject to the requirements of the Open Meetings Act so long as the discussion remains administrative and not substantive. On the other hand, an agency cannot ignore the requirements of the Open Meetings Act when discussing public business simply because no action was taken following the discussion.

What are the general requirements of the Open Meetings Act?

Time and place of meetings. All meetings of public agencies, and committees or subcommittees thereof, must be held at specified times and places that are convenient to the public. KRS 61.820(1). Public agencies must evaluate space requirements, seating capacity, and acoustics in considering locations for public meetings to ensure, insofar as feasible, meeting room conditions that allow effective public observation. Public agencies should provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by other means. This schedule of regular meetings must be made available to the public. KRS 61.820(2).

Minutes of meetings. Public agencies must keep minutes of action taken at every meeting that set forth an accurate record of votes and actions taken. These minutes must be open for inspection by the public no later than the conclusion of the agency's next public meeting. KRS 61.835. Calling a meeting to order, and a vote to adjourn, are "actions taken" within the meaning of KRS 61.835. Therefore, even if a meeting is called only to discuss public business, and no final action is taken, the minutes should reflect a call to order and adjournment.

Public attendance at meetings. To the extent possible, meeting room conditions should allow for effective public observation of the meetings. No person attending the meeting can be required to identify himself or herself in order to attend a meeting. The agency cannot place conditions on attendance of the public at a meeting other than the conditions required to maintain order. KRS 61.840. Since the General Assembly has not established procedural rules for the conduct of meetings and citizen participation, each agency must adopt its own rules of procedure, but those rules may not conflict with the Open Meetings Act.

News media coverage. Public agencies must permit news media coverage, including recording and broadcasting. KRS 61.840.

Requirements for holding special meetings. All meetings that are not regularly scheduled meetings are special meetings, and are subject to the following requirements under KRS 61.823:

Who may call a special meeting? The presiding officer or a majority of the members of the public agency may call a special meeting. KRS 61.823(2).

What are the notice and contents of notice requirements? The public agency must provide written notice of the special meeting consisting of the date, time, and place of the special meeting and the agenda. Discussion and actions at the meeting must be limited to the items on the agenda. KRS 61.823(3).

As soon as possible, written notice must be personally delivered, transmitted by facsimile, or mailed to every member of the agency and each media organization that files a written request to receive notice of special meetings. Notice must be provided at least twenty-four hours before the special meeting. KRS 61.823(4)(a).

Written notice of special meetings may be transmitted by email to public agency members and media organizations that have filed a written request with the public agency indicating a preference to receive email notification. The written request must include the email address of the agency member or media organization. KRS 61.823(4)(b).

As soon as possible, written notice must also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building where the agency has its headquarters. Notice must be posted at least twenty-four hours before the special meeting. KRS 61.823(4)(c).

In the case of an emergency that prevents the public agency from complying with these requirements, the agency must make a reasonable effort to notify the members of the agency, media organizations that have filed a written request to be notified, and the public of the emergency meeting. KRS 61.823(5). At the beginning of the emergency meeting, the person chairing the meeting must describe for the record the emergency that prevented compliance with the notice provisions, and these comments should be recorded in the minutes. Discussions and actions at the emergency meeting must be limited to the emergency for which the meeting was called.

What are video teleconferences? Subject to the provisions of KRS 61.826, an agency's meetings may be conducted by video teleconference. A video teleconference is a "meeting occurring in two (2) or more locations where individuals can see and hear each other by means of video and audio equipment." KRS 61.805(5). Notice of a video teleconference shall clearly state the meeting will be conducted via video teleconference and it shall precisely identify a primary location where all members can be seen and heard, and where the public may attend. KRS 61.826(2). Any interruption in the video or audio broadcast shall result in immediate suspension of the meeting until the broadcast is restored. KRS 61.826(4). Meetings cannot be conducted via telephone conference, because under KRS 61.826, all members must be both seen and heard.

Additional factors to consider when conducting meetings

- The courts have stated that the Open Meetings Act does not require agencies to conduct business "only in the most convenient locations at the most convenient times." The Act is "designed to prevent government bodies from conducting [their] business at such inconvenient times or locations as to effectively render public knowledge or participation impossible, not to require agencies to seek out the most convenient time or location." *Knox Cty. v. Hammons*, 129 S.W.3d 839 (Ky. 2004).

- Agencies are not required to take minutes in closed sessions.

- If the public agency directs that an audio or video recording of its meeting be made, and the recording is created with agency equipment at agency expense, the recording of the meeting is a public record upon creation and must be made available for inspection within three business days of an open records request.

- The right of the public to attend a public meeting under the Open Meetings Act does not include the right to participate in the meeting and address the members of the agency; it is a statutory right "to observe with their eyes and ears what transpires at those meetings."

- A member of the public, as well as the media, must be permitted to record a meeting so long as it does not disrupt the meeting.

- The notice of a special meeting must include an agenda that contains specific agenda topics ("new business," "old business," "open to floor," are not acceptable), and the date, time, and place of the meeting. Because an agenda is not statutorily required for regular meetings, discussions at a regular meeting are not restricted to agenda topics if an agenda is prepared.

- Although the public agency can post notice of the special meeting on the agency website, web notice of the meeting does not satisfy the statutory requirement and must be in addition to, rather than in lieu of, delivery of the notice by U.S. mail, facsimile, in person, or by email, where requested, and physical posting of the notice in a conspicuous place.

- The public agency is not obligated to provide notice to "interested" individuals who have requested notice of special meetings, only to the parties identified in the statute.

- The Attorney General has rarely found that conditions were sufficiently grave to justify a public agency's decision to call an emergency meeting.

What subjects may be discussed in a closed session?

The Open Meetings Act permits a public agency to discuss certain subjects in a closed or executive meeting if notice is given in the regular meeting of the general nature of the business to be discussed, the reason for the closed session, and the specific provision authorizing the closed session. KRS 61.815(1)(a). A closed session may be held only after a motion is made and carried in open session, and no final action may be taken in closed session. KRS 61.815(1)(b) and (c). The agency is prohibited from discussing matters unrelated to the purpose for entering closed session while in closed session. KRS 61.815(1)(d). The exceptions to the Open Meetings Act are found at KRS 61.810(1) and include:

(a) Deliberations of the Kentucky Parole Board;

(b) Deliberations on the future acquisition or sale of real property by a public agency; when publicity would be likely to affect the value of the property;

(c) Discussions of proposed or pending litigation involving a public agency;

(d) Grand or petit jury sessions;

(e) Collective bargaining negotiations between public employers and their employees;

(f) Discussions or hearings that might lead to the appointment, dismissal, or discipline of an individual employee, member, or student. However, general personnel matters may not be discussed in private;

(g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;

(h) State and local cabinet meetings and executive cabinet meetings;

(i) Committees of the General Assembly other than standing committees;

(j) Deliberations of judicial or quasi-judicial bodies involving individual adjudications or appointments. This does not include meetings of planning commissions, zoning commissions, or boards of adjustment;

(k) Meetings which federal or state law specifically require to be conducted in privacy;

(l) Meetings which the Constitution provides shall be held in secret;

(m) Portions of meetings devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(m); and

(n) Meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract.

The Open Meetings Act prohibits any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the agency, if the meetings are held "for the purpose of avoiding the requirements" of the Act. KRS 61.810(2). Therefore, an agency violates KRS 61.810(2) when it intentionally seeks to subvert the Act. This prohibition does not restrict discussions between individual members if the purpose of the discussion is to educate the members on specific issues.

Additional considerations for entering closed session

- The courts have stated that public agencies must give "specific and complete notification in the open meeting of any and all topics which are to be discussed during the closed meeting." The Attorney General has stated that "notification must include both a statement of the exception authorizing the closed session and a description of the business to be discussed couched in sufficiently specific terms to enable the public to assess the propriety of the agency's actions."

- The courts have stated that the exception for proposed or pending litigation applies to "matters inherent to litigation, such as preparation, strategy, or tactics, but not just when an attorney is present."

- Before going into closed session to discuss a personnel issue under KRS 61.810(1)(f), an agency must state whether the discussion will relate to either the appointment of, the dismissal of, or the discipline of an individual employee, member, or student, but the agency is not required to identify the individual by name.

- The Act was amended in the 2018 General Session to create a new exemption for "meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract."

What is the role of the Attorney General?

If a person believes that a public agency has violated the Open Meetings Act, he or she shall first submit a written complaint to the presiding officer of the agency. The complaint must state the circumstances of the violation and what the agency should do to correct it. KRS 61.846(1).

Within three business days of receipt of the complaint, the public agency shall decide whether to correct the violation and notify the complaining party of its decision in writing. KRS 61.846(1). If the agency believes that no violation has occurred and rejects the proposed remedy, it must issue a written response that cites the statute authorizing its actions and briefly explain how the statute applies.

The complaining party may appeal to the Attorney General for review of the agency's action within sixty days of receipt of the agency's response. KRS 61.846(2). The appeal shall include a copy of the written complaint and a copy of the agency's response, if the agency issued a denial. The Attorney General will review the appeal and issue a decision stating whether the agency violated the Open Meetings Act within ten business days. KRS 61.846(2). Both the complaining party and the agency will receive a copy of the decision. Both may appeal the Attorney General's decision to the circuit court of the county where the public agency has its principal place of business or where the violation occurred. KRS 61.848. If an appeal is not filed within thirty days, the Attorney General's decision has the force and effect of law and can be enforced in circuit court. KRS 61.848(4)(b).

If the complaining party prevails against an agency in circuit court, he or she may be awarded costs, including attorney fees, if the court finds that the violation was willful. KRS 61.848(6). The court may also award the complaining party up to $100 for each violation. Additionally, the court may void the action taken by the agency if such action was taken during a meeting that failed to substantially comply with certain requirements of the Act. KRS 61.848(5).

Additional factors concerning appeals to the Attorney General

- A complainant must appeal a public agency's denial of, or failure to respond to, his or her open meetings complaint within sixty days, and if he or she does not do so the appeal is time-barred. There is no similar statutory limitation on bringing an open records appeal.

- Upon receipt of an open meetings appeal, the Attorney General will issue notification of the appeal, and a copy of the appeal, to the public agency against which the appeal was filed, and the agency may respond in writing to the

Attorney General. The agency must send a copy of its response to the individual who filed the appeal.

- The Attorney General will not consider an appeal that does not include a copy of the written complaint and a copy of the agency's response, if the agency issued a response.

- Because the Open Meetings Act provides for judicial review of the issues raised in an appeal, the Attorney General will not reconsider an open meetings decision.

- The Attorney General's role in an open meetings appeal is to issue a decision stating whether the public agency violated the Open Meetings Act; the Attorney General cannot comment on, or direct the implementation of, proposed remedial measures. Nor can he enforce his decision by imposing penalties.

Special Considerations during the State of Emergency

Until this point, this brochure provided guidance on the Open Records Act and Open Meetings Act during normal circumstances. In response to the public health emergency caused by the novel coronavirus, however, the General Assembly passed Senate Bill 150 ("SB 150"), which altered certain requirements under the Open Records Act and Open Meetings Act during the declared state of emergency. Because SB 150 contained an emergency clause, its provisions became effective upon the Governor's signature on March 30, 2020.

SB 150 is the controlling authority for the duration of the state of emergency. The following rules apply to the Open Records Act and Open Meetings Act, respectfully.

The Open Records Act during the state of emergency

Agency Response Time Extended. Under SB 150 § 1(8)(a), an agency shall respond to a request to inspect or receive copies of public records within ten days of receipt of the request. Importantly, SB 150 does not contain the same language as KRS 61.880(1), which excludes Saturdays, Sundays, and holidays from the response time calculation. As such, a public agency has ten calendar days from the date of receipt to respond to an open records request.

On-site public inspection delayed. Ordinarily an agency may not prohibit a person from conducting an on-site inspection of public records under KRS 61.872(1). Under SB 150 § 1(8)(a), however, a public agency "may delay on-site inspection during the pendency of the state of emergency."

SB 150 did not otherwise alter the Open Records Act. Therefore, with the exception of these two provisions, an agency should continue to apply the statutory requirements and may rely on the guidance provided in pages 1 through 15 of this resource.

The Open Meetings Act during the state of emergency

Video or teleconference meetings. SB 150 does not prohibit in-person meetings. Rather, SB 150 § 1(8)(b) states that a public agency "may conduct any meeting, including its regular meeting, by live audio or live video teleconference during the period of the state of emergency." Ordinarily, a public agency must use video teleconferencing technology so that members can be both seen and heard. However, SB 150 dispenses with the video requirement "if the public agency does not have the technological capacity or availability to provide for a live video teleconference." SB 150 § 1(8)(b)2.b. In that case, a public agency may conduct an open meeting using audio teleconferencing. SB 150 § 1(8)(b).

Public attendance. If a public agency elects to conduct its meeting using video or audio teleconference, the agency shall provide public notice that the meeting will be conducted via video or audio teleconference. The notice shall also provide specific information on how any member of the public or media may access the meeting. A public agency may provide a publicly available website in the notice and must ensure that the meeting is broadcast on that website. However, if a public agency does not conduct its meeting using video or audio teleconferencing technology, and all members of the public agency attend in-person, the public agency may not prohibit in-person public attendance. Instead, the public agency may only limit in-person public attendance to the extent necessary to ensure social distancing requirements. *See* 20-OMD-092.

Sample Forms – Open Records

Sample open records request

January 6, 2020

John Q. Public, City Clerk
Municipal Building
Anytown, Kentucky 40999

Dear Mr. Smith:

I respectfully request to inspect the following records:

1. All contracts that the city has with ABC Inc.; and

2. Any correspondence between the mayor and ABC Inc. since January 1, 2020.

If these documents are temporarily unavailable, please inform me of the earliest date when I may inspect them.

I also request a copy of the contract between the city and ABC Inc. dated October 14, 2020. I understand that I will have to pay the actual cost of making this copy.

Thank you for your attention to this request.

Sincerely,

Jane Q. Citizen

Sample open records response

January 9, 2020

Jane Q. Citizen
100 Maple Avenue
Anytown, Kentucky

Dear Ms. Citizen:

This will acknowledge receipt of your request for public records, which our Office received on January 7, 2020. You requested access to and copies of:

1. All contracts that the city has with ABC Inc.;

2. All invoices that the city has received from ABC Inc.;

3. All complaints received by the city that relate to ABC Inc.'s performance of duties under its contract with the city.

Contracts and invoices are available for inspection in my office Monday through Friday from 8:00 a.m. to 4:30 p.m.

Alternatively, we will send you copies of these records by mail at a cost of 10¢ per page. The cost to you, including postage, which must be paid in advance, will be $2.46 (15 pp. at 10¢ per page, plus 96¢ postage). Please contact me if you would prefer to receive copies by mail.

One complaint has been filed against ABC Inc. The city is currently investigating that complaint and considering an enforcement action. Release of the complaint at this time might harm the city by revealing the identity of the complainant, who has requested anonymity. Therefore, pursuant to KRS 61.878(1)(h), we must deny that portion of your request.

Sincerely,

John Q. Public
City Clerk

Sample open records appeal

March 1, 2020

Attorney General Daniel Cameron
700 Capital Avenue
Capitol Building, Suite 118
Frankfort, KY 40601

Re: Open Records Appeal

Dear Attorney General Cameron:

I am appealing the refusal of the city clerk of Anytown, Kentucky, to allow me to inspect records in his possession. A copy of my written request is attached. A copy of the clerk's response denying my request is also attached.

The clerk claims that the records are not open records because they are preliminary recommendations. I do not agree because the records I request to inspect are final contracts between the city and ABC Inc.

Sincerely,

Jane Q. Citizen

Enclosures

Sample Forms – Open Meetings

Sample open meetings complaint

February 3, 2020

Jane Q. Public, Mayor
Municipal Building
Anytown, KY 40999

Dear Mr. Jones:

Because you are the presiding officer at city council meetings, I am submitting to you a complaint concerning an action that took place at the city council meeting held on January 30, 2020. At that meeting, the council voted to go into a closed or executive session to discuss general personnel matters

The council cannot legally go into a closed or executive session to discuss general personnel matters. I am requesting that the council discuss at a future meeting, in an open and public session, those matters that were discussed at the improperly called closed session on January 30, 2020. Any action taken as a result of the improperly called session should be declared null and void.

Sincerely,

John Q. Citizen

Sample open meetings response

February 7, 2020

John Q. Citizen
Commonwealth Avenue
Anytown, Kentucky

Dear Mr. Citizen:

In your recent letter to the city you stated that the city council, at its meeting held on January 30, 2020, went into an executive or closed session to discuss general personnel matters.

While the city recognizes that it cannot discuss general personnel matters in a closed or executive session, the city is permitted, pursuant to KRS 61.810(1)(f), to go into a closed session to discuss matters that might lead to the appointment of an individual employee.

The office of director of the streets and parks department is currently vacant, and two persons have applied for the position. The matters discussed by the council during the closed session on January 30, 2016, involved the council's evaluations of the two applicants for that office and such matters may be discussed at a closed session.

Sincerely,

Jane Q. Public
Mayor

Sample open meetings appeal

February 14, 2020

Attorney General Cameron
700 Capital Avenue
Capitol Building, Suite 118
Frankfort, KY 40601

Re: Open Meetings Appeal

Dear Attorney General Cameron:

I am appealing the denial of my complaint by the mayor of Anytown, Kentucky, concerning the closing of a council meeting held on January 30, 2020, at which the council discussed general personnel matters.

I am enclosing a copy of my complaint to the mayor and a copy of the mayor's denial of my complaint. The mayor maintains that the session of the council meeting in question may be closed to the public because personnel matters were discussed. In my opinion, the closing of such a session to the public is a violation of KRS 61.810(1)(f).

Sincerely,

John Q. Citizen

Enclosures

Sample Rules and Regulations

NOTICE

ADMINISTRATIVE REGULATIONS GOVERNING

INSPECTION OF THE PUBLIC RECORDS OF THE

_____

(Name of State Administrative Agency)

_____

(Office, Bureau, Division, etc.)

Pursuant to KRS 61.870 to 61.884, the public is notified that, as provided herein, the public records of the above named Agency of the Commonwealth of Kentucky are open for inspection by any person on written application to _____(name), _____(title), official custodian of the public records of the _____(state administrative agency) whose address is _____ or to _____(name), _____ (title), official custodian of the public records of the _____, (office, bureau, division, etc.) whose address is _____, from ____ a.m. to ____ p.m., Monday through Friday, each week, except holidays. Application forms for the inspection of the public records of this agency will be furnished on request to any person by an employee in this office. Assistance in completing the application form will be provided by an employee on request. Email requests for records should be sent to (agency email address for open records requests) and should include a mailing address.

Applicants for the inspection of public records shall be advised of the availability of the records requested for inspection, and shall be notified in writing not later than three (3) working days after receipt of an application for inspection of any reason the records requested are not available for public inspection.

Copies of written material in the public records of this agency shall be furnished to any person requesting them on payment of a fee of ten (10) cents a page; copies of nonwritten records (photographs, maps, material stored in computer files or libraries, 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.

This the _____ day of _____, 20___.

_____

(Agency Head or Designated Representative)

Additional Resources

Open Meetings Decisions and Open Records Decisions (OMDs and ORDs) issued by the Attorney General from 1993 to the present may also 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/recretentionschedules/Pages/LocalRecordsSchedules.aspx

3. State Records Retention Schedules https://kdla.ky.gov/records/recretentionschedules/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. Senate Bill 150 https://apps.legislature.ky.gov/recorddocuments/bill/20RS/sb150/bill.pdf

7. "Attorney General Advisory: Attorney General Advisory: Open Meetings Act and Open Records Act Changes during the COVID-19 public health emergency," https://ag.ky.gov/Documents/03.31.20%20OAG%20Advisory%20-%20Senate%20Bill%20150.pdf

8. OAG 20-05, available at https://ag.ky.gov/Priorities/Government-Transparency/opinions/Opinions%20New/OAG%2020-05.pdf

Managing Government Records
A Cooperative Undertaking

An Introduction to
Kentucky's
Public Records Management Law

Revised August 2015

Table of Contents

Introduction	3
What are public records?	3
What is a public agency?	3
Do agencies have to document their activities?	4
What is records management?	4
Who has responsibility for public records management in Kentucky?	4
What are the records management responsibilities of an agency head?	5
What are the responsibilities of a Records Officer?	5
What is the function of the State Archives and Records Commission?	6
What is the scope of the Commission's responsibility and who are its members?	6
What is records retention scheduling?	6
What is a records retention schedule?	7
What is disposition?	8
What about the proper storage and protection of records?	8
How are state agency publications managed?	9
What is the role of the Office of the Attorney General?	9
What records management services does the Kentucky Department for Libraries and Archives provide?	10
Where should I go for assistance or more information?	10

Introduction

Managing Government Records: A Cooperative Undertaking

All public employees need appropriate records to do their jobs. Proper record keeping and sound records management help assure effective and efficient administration of programs, fulfill legal responsibilities, provide an adequate audit trail, and record the history and intent of public policy. Employees of publicly-funded institutions have a responsibility under Kentucky law to see that information created and maintained in government offices -- **public records**, as defined by statute -- is organized and accessible for use. This requirement is outlined in the Commonwealth of Kentucky's Open Records Act (Kentucky Revised Statute [KRS] 61.870-884). The Act explicitly recognizes the connection between managing government records and making them accessible to the public, barring any statutory restrictions.

Implementation of a records management program involves the participation of agency personnel, led by the agency's Records Officer, working in cooperation with staff from the Kentucky Department for Libraries and Archives (KDLA) and the State Archives and Records Commission (SARC). Under KRS 171.410-740, the head of a public agency, KDLA, and SARC each has different responsibilities to help ensure that records are created and well-managed and that permanently valuable records are preserved, protected, and accessible.

What are public records?

Public records are defined by KRS 171.410 (1) as ***"all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency."***

Public records are recorded information that is created or received by a state or local government agency in any format, which documents a transaction or activity by or with any public official or employee of that agency.

What is a public agency?

For public records management purposes, a **public agency** is defined by KRS 171.410 (4) as ***"every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority."***

Do agencies have to document their activities?

Under the terms of KRS 171.640, agency heads are assigned explicit responsibility for ensuring that records containing adequate and proper documentation of the organizational functions, policies, decisions, procedures, and essential transactions of the agency are created and preserved. This includes records designed to furnish information necessary to protect the legal and financial rights of the government and of persons directly affected by a government agency's activities.

What is records management?

Records management is the systematic control of recorded information, regardless of format, from original creation to ultimate disposition. Every office creates records, which may be paper, microfilm, electronic, or some other format.

These records can be a burden to maintain. Records management allows an organization to:

- Meet its legal and regulatory responsibilities;
- Decide which records to keep and which to destroy;
- Ensure an adequate documentary record of its functions, policies, decisions, procedures, and essential transactions;
- Identify and properly control records of continuing or archival value;
- Operate effectively, economically, and efficiently; and
- Provide the right information to the right person, at the right time, at the lowest possible cost.

Who has responsibility for public records management in Kentucky?

A publicly-funded agency is required to have a records management program and to work with KDLA and SARC to implement that program.

All state and local government employees are responsible for the records they create and maintain and all employees can make a major contribution to good records management in their agencies on a daily basis.

Kentucky law (KRS 171.410 - 740) assigns oversight of the management of state and local government records to KDLA. The statutes also set out specific responsibilities delegated to the head of any public agency and to SARC.

What are the records management responsibilities of an agency head?

Under KRS 171.680, an agency head is required to establish and maintain an active, continuing program for the economical, efficient management of the agency's records. KRS 171.680 (2), mandates that this program should include:

- Effective controls over the creation, maintenance, and use of records in the conduct of current business;
- Cooperation with KDLA in applying standards, procedures, and techniques designed to improve the management of records;
- Promotion of the maintenance and security of records deemed appropriate for preservation;
- Facilitation of the segregation and disposal of records of temporary value; and
- Compliance with the provisions of KRS 171.410-740 and the rules and regulations produced by the Department.

What are the responsibilities of a Records Officer?

A Records Officer is the person named by the agency head to serve as the official liaison with KDLA on records management issues and to coordinate records management within the agency (725 KAR 1:010). Agencies should contact KDLA's State Records Branch (See page 11.) to submit proper documentation of the appointed Records Officer. The Records Officer typically works with his/her agency's staff to compile or update a Records Retention Schedule in *draft* form, prior to its review by KDLA personnel and SARC. The schedule is subject to detailed analysis at this stage, including an assessment by legal and audit staff.

In addition to maintaining a current Agency Retention Schedule, the Records Officer coordinates records management practices in the agency by inventorying, analyzing, and advising the staff on records management procedures; participates in the agency's information technology planning process; oversees the transfer of records and publications; and supervises the destruction of records that is authorized to occur within the agency. The Records Officer should note the authorization for said destruction and the amount of records destroyed, and make an annual report of this record to a designated supervisor and to the Director of the Archives and Records Management Division, per 725 KAR 1:010, Section 2 (2).

What is the function of the State Archives and Records Commission?

SARC, under KRS 171.420 and 171.670, has the authority to review and approve all records retention schedules submitted by state and local public agencies through the Department. In this task, it considers the importance and potential uses of the record to the creating agency and the value of information within a particular record. It also analyzes recommendations jointly developed by agencies and KDLA's Archives and Records Management Division as to how long particular records should be kept, and determines any further disposition that should take place. SARC is concerned with preserving information of continuing value and making timely disposition of information of temporary value.

SARC also advises the Department on a range of other matters relating to archives and records management.

What is the Commission's responsibility and who are its members?

In all cases, SARC has final and exclusive authority to determine the ultimate disposition of Kentucky's public records. Per KRS 171.420, its decisions are binding on all parties concerned, and those decisions can only be modified or otherwise changed by its own actions.

SARC is a seventeen member body composed of:

- the State Librarian, who serves as Chair of the Commission;
- the Secretary of the Education and Workforce Development Cabinet;
- the Auditor of Public Accounts;
- the Chief Justice of the Supreme Court;
- the Director of the Legislative Research Commission;
- the Attorney General;
- the Director of the Governor's Office for Policy and Management;
- the Commissioner of the Commonwealth Office of Technology;
- one member representing the University of Kentucky;
- one member representing the Kentucky Historical Society;
- one member representing the Kentucky Library Association;
- one member representing regional universities and colleges;
- one member representing local governments; and
- four citizens-at-large.

SARC meets and approves new and revised schedules four (4) times a year. The meetings are held on the second Thursday of each March, June, September and December.

What is records retention scheduling?

Records retention scheduling is the systematic process of identifying, describing, and analyzing each record and each electronic records system created by an agency. This

leads to a preliminary assessment of the administrative, legal, fiscal, and future historical or research value of each record type. These values, and any special directions for the management or disposition of this information during and after its active office life, are documented in a draft Records Retention Schedule. Draft schedules are submitted to the SARC, for its review.

What is a records retention schedule?

A current and accurate records retention schedule represents a comprehensive inventory of the information holdings of a government agency and is the basis for an agency's records management program. A records retention schedule is a list of each record type, termed a "record series," and each electronic records system created by a public agency. A record series is either a document or a set of documents maintained together because they relate to a particular subject or function, result from the same activity, take the same form, or because of some other relationship arising out of their creation, receipt or use.

A schedule shows the title of each record type, a unique number by which it can be identified, a description of the record series and its contents, and disposition instructions explaining how long to maintain the record and what to do with it once the retention period has ended.

Approved records retention schedules furnish public agencies with clear legal authority to make disposition of their records accordingly, and with a strong resource for management control. They help public officials and employees identify which records must be retained permanently and which records may be destroyed after a certain period of time. They also help an agency ensure that adequate documentation of its activities has been created and is being maintained, as required by statute.

Schedules ensure accountability for the information being produced, serve as a critical asset in a state agency's strategic information technology planning and provide agencies with a valuable resource with which to respond to information requests under Kentucky's Open Records Law. Without an approved Records Retention Schedule, state or local agencies do not have the legal authority to destroy any of its records, regardless of format, and can incur substantial costs or liabilities if such destruction does occur. (KRS 519.060)

Having a schedule approved by SARC is an important first step for an agency as it develops a records management program. For a records management program to be fully implemented, however, an approved schedule must be used on a regular basis by agency personnel.

When an agency finds it must create new records or electronic systems or when it determines that certain records or systems are obsolete and are no longer being created, the schedule must be revised to reflect these changes. Once new or revised schedules are approved by SARC, per KRS 171.420 and 171.670, agencies may apply

schedules to their records management needs, with the confidence that they have the legal authority to make disposition of their records when following the directions contained in the schedule.

Records retention schedules for state government agencies are available on KDLA's website: http://kdla.ky.gov/records/recretentionschedules/Pages/stateschedules.aspx.

Records retention schedules for local government agencies are available on KDLA's website:
http://kdla.ky.gov/records/recretentionschedules/Pages/LocalRecordsSchedules.aspx.

The General Schedule for Electronic and Related Records is available on KDLA's website at:
http://kdla.ky.gov/records/recretentionschedules/Documents/State%20Records%20Schedules/erecordsgeneral.PDF.

What is disposition?

As it is used in this document, the term "disposition" refers to what is done with records when those records are no longer needed for current business. Disposition possibilities include transferring records from one agency to another when functions are officially transferred, transferring records to the State Records Center, destroying temporary records at an approved time, or transferring records of historical value to the State Archives.

What about the proper storage and protection of records?

Another important role delegated to the agency is ensuring the proper storage of records. Under KRS 171.690, whenever an agency head determines that substantial economies or increased operating efficiency can be achieved, the agency head is directed to provide for the storage, processing, and servicing of appropriate records in the State Records Center maintained and operated by KDLA, or in a location maintained and operated by the agency itself that has been approved by KDLA.

Providing for the protection of records is another essential responsibility delegated to government agencies. As directed by KRS 171.710, the agency head is required to establish such safeguards against removal or loss of records as she or he believes necessary and as may be required by KDLA rules and regulations. These safeguards must include making it known to all officials and employees of the agency that no records are to be transferred, turned over to another entity, or destroyed except in accordance with the law; and calling their attention to the penalties provided by law for the unlawful removal or destruction of records.

The agency head is also directed to notify KDLA of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that come to his/her attention, and with the Department's assistance, to initiate

action through the Office of the Attorney General for recovery of any records which may have been unlawfully removed and for any other redress as may be provided by law. Penalties are established in statute for violations of the key elements of Kentucky's public records management law. For state employees, these can include dismissal from state government. Kentucky's tampering with public records statute (KRS 519.060), and laws dealing with unlawful access to a computer (KRS 434.845 - 850) and misuse of computer information (KRS 434.855) describe various records-related offenses punishable as felonies under the Kentucky Penal Code.

How are state agency publications managed?

A state publication or report is any published material, regardless of format, issued for general distribution, which documents agency-related functions or activities. As such, a state publication may be considered a "published record." State government agencies publish hundreds of reports, newsletters, and studies each year, either in traditional paper format or on websites. At times, a state publication may provide the only documentation of an agency or program's activities. State publications complement the information contained in agency files to present a full accounting of agency activity over time.

Under KRS 171.450 and 725 KAR 1:040, Section 2 state agencies must forward three (3) copies of all publications produced for general public distribution to the KDLA, Archives and Records Management Division, unless the publication is submitted electronically. Agencies only need to forward one (1) copy of an electronic publication.

After a state publication is received, a bibliographic entry is added to the Department's online catalog.

What is the role of the Office of the Attorney General?

All records produced by a public agency are subject to the provisions of the Open Records Act (KRS 61.870 – 884). Certain records and confidential information are exempt from inspection; these exemptions are stated in KRS 61.878. If, in the course of an open records investigation, the Office of the Attorney General determines that an agency has not appropriately managed its records, per KRS 171.410 – 740, the matter may be referred to KDLA for a records management review.

KRS 15.257 (1) requires the Office of the Attorney General to distribute to all county judge/executives, mayors, county attorneys, city attorneys, superintendents of public school districts, presidents of each state public postsecondary educational institution, and attorneys of public school districts and postsecondary educational institutions throughout Kentucky written information that explains the procedural and substantive provisions of the Open Records Act together with information required by KRS 171.223 to be prepared by the KDLA concerning proper retention and management of public records. This distribution occurs whenever there is a change in the Open Meetings or Open Records Act.

What records management services does KDLA provide?

Under the provisions of KRS 171.450, KDLA is responsible for managing and controlling records, in whatever medium, created by state and local government agencies in the Commonwealth. Specifically, as provided in KRS 171.410 - 740, KDLA establishes standards, procedures, and administrative regulations for recording, managing, preserving, and reproducing government-created or maintained records. Chapter 1 of 725 KAR provides further explanation of records management in Kentucky government.

KDLA works in close collaboration with government agencies and their records officers, to prescribe policies, principles and administrative regulations to be followed by state and local government agencies in managing their records; provides records analysis and scheduling assistance to agencies; furnishes technical assistance to agencies whose records have been damaged in disasters; and provides records management training and educational programs for public agencies.

KDLA also serves as the central repository for archival public records in Kentucky, and creates finding aids for records in archival custody. Records housed at the State Archives are made available for research through the Department's Archives Research Room. At the State Records Center, KDLA offers centralized high-density, low-cost storage and access services for government records of non-permanent retention. KDLA also sets rules governing the transfer of records from one agency to another.

Where should I go for assistance or more information?

All public records management services are provided through the Department's Archives and Records Management Division, which can be reached at (502) 564-8300.

If you work for a state government agency, a public university or community college, or an office of the judicial branch, contact the State Records Branch for assistance and information about services at (502) 564-1703 or jim.cundy@ky.gov.

If you work for an agency of local government, contact the Local Records Branch for assistance and information about services at (502) 564-1724 or trace.kirkwood@ky.gov.

If you have a question relating to records management requirements for electronic records, contact the Electronic Records Management Branch at (502) 564-1720 or beth.shields@ky.gov.

If you have questions concerning research at the State Archives or the holdings of the State Archives, contact the Archival Services Branch at (502) 564-8348 or tim.tingle@ky.gov.

If you would like advice on the conversion of original paper records to microfilm or other image management formats, including digital scanning, or have other questions about

the Department's micrographic services, contact the Micrographics and Digital Imaging Services Branch at (502) 564-1757 or mark.stone@ky.gov.

If you have a question about the physical preservation of original paper records or would like to secure these services from the Department, contact the Document Preservation Lab at (502) 564-1741 or melissa.shields@ky.gov.

For all other questions or information, please call (502) 564-1722 or e-mail renita.van@ky.gov.

There are many helpful resources and information available on the KDLA website. Please refer to the following for assistance:

Information and Services for Government Records Management
http://kdla.ky.gov/records/Pages/default.aspx

725 KAR Chapter 1, Archives
http://www.lrc.ky.gov/kar/TITLE725.HTM

Records Retention Scheduling: A Procedural Guide
http://kdla.ky.gov/records/Documents/Retention%20Scheduling%20Guidelines.PDF

Records Description and Analysis (form)
http://kdla.ky.gov/records/Documents/daform.doc

Transfer of Public Records: A Procedural Guide
http://kdla.ky.gov/records/Documents/Records%20Transfer%20Procedures,January,%202010.PDF

Records Transmittal to the State Archives Center or State Records Center (form)
http://kdla.ky.gov/records/Documents/Transmittal.doc

Destruction of Public Records: A Procedural Guide
http://kdla.ky.gov/records/Documents/Destruction%20Guidelines.PDF

Records Destruction Certificate (form)
http://kdla.ky.gov/records/Documents/kyrecordsdestruction.doc

Microfilming and Digital Imaging of Public Records: A Procedural Guide
http://kdla.ky.gov/records/recmgmtguidance/Documents/MicrofilmingandDigitalImagingofPublicRecords-012010.PDF

CURRICULUM POLICY

The School Based Decision Making Council at Mercer County Senior High School shall adopt the curriculum of the Mercer County Board of Education as the curriculum that shall be implemented at the school. It is our opinion that this curriculum is aligned with state standards and is appropriate for our instructional needs. Subsequent amendments to the curriculum by the Mercer County Board of Education shall become effective immediately upon approval by the Board. This school council policy shall also be consistent with the applicable indicators from the Standards and Indicators for School Improvement.

Our school curriculum shall:

1. Help all students to master all of Kentucky's Core Content
2. Reflect the strategies adopted in our Comprehensive School Improvement Plan
3. Implement the Kentucky Program of Studies
4. Be developed by faculty members that report to the principal on their work

The principal shall oversee implementation of this policy.

PRINCIPAL SELECTION POLICY

PREPARATION

When the council learns that the school needs to hire a principal, the council:

- meets with the Superintendent, or designee, (who will serve as chair of the council and have voting rights for the purpose of the hiring process) to review the *Best Practices for Principal Selection* document available on the Kentucky Association of School Councils website. The outgoing principal shall not serve on the council during the principal selection process.
- selects a trainer of their choice to deliver training in recruitment and interviewing techniques the council Chair or Vice-Chair will arrange for this training on a date agreed upon by the council and call a special meeting of the council for this purpose with "Principal Selection Training" on the agenda.
- distributes copies of this policy to all members before the scheduled training and sends a copy to the trainer who will be providing the selection training.
- distributes informational materials regarding Kentucky Open Records and open meetings law and have all members sign a nondisclosure agreement forbidding sharing of information and discussions held in closed session.

SELECTION PROCESS

The council will:

- design and carry out processes to get shareholder input on what traits will make the best leader for this school. Shareholder input will involve, but not be limited to faculty, staff, parents, and students.
- call a special meeting of the council and meet in open session to:
    - discuss the process and timeline for receiving applications, and other steps in the hiring process.
    - develop a set criteria for a strong candidate using the shareholder input plus council members' ideas. These criteria will not discriminate based on race, ethnicity, gender, marriage or family status, religion, political affiliation, disability, or age.
    - use the criteria to write questions that will be asked of all candidates during in-person interviews.
    - decide on other methods to gather information about the candidates. The methods may include, but not limited to: applications and resumes, references, applicant portfolios, open forums, and written responses to hypothetical work-related challenges.
- call a special meeting of the council and meet in closed session to:
    - review all applications and written references and select applicants to interview.
    - determine if information in the written applications and resumes points to any specialized questions that should be asked of a particular applicant and develop those questions if necessary,
- schedule interviews with each applicant.
- conduct each interview in a special called meeting in closed session during which:
    - the same questions will be asked in the same order for every candidate.
    - any specialized or follow-up questions will be asked after the standard questions.
    - a discussion will be held immediately following each interview about how well the applicant meets the criteria.
- after all interviews are completed, hold closed session discussion of the merits of all applicants and work toward consensus on the final selection.
- if the council is not satisfied with any of the candidates, the council should discuss the option of having an interim principal. The interim will be appointed by the superintendent until a suitable applicant is found.
- keep all closed session documents confidential.

SELECTION OF THE NEW PRINCIPAL

After all information is gathered, the council will:

- meet in an open session to vote for the final selection of a new principal. The principal is elected on a majority vote of the council. Record the action in the meetings.
- ask the superintendent to complete the hiring process.
- communicate with shareholders the decision as soon as possible.

POLICY EVALUATION

This policy will be evaluated by the council and revisions recommended as needed.

Upcoming Dates

July 18	SBDM 9:00 am
July 18	Board meeting 5:30 pm
July 31-August 1	Titan Academy/Freshman Orientation
August 4	Titan Academy/Senior Seminar
August 7	MCSHS Open House 5:00 - 7:00 pm
August 9	1st Day of School
August 15	Board meeting 5:30 pm
August 21	SBDM 3:30 pm
Sept. 4	Labor Day - No School
Sept. 14	Picture Day
Sept. 18	SBDM - 3:30 pm
Sept. 19	Board meeting 5:30 pm
Sept. 19-20	CERT Testing
Sept. 25	College Fair
Sept. 29	Flex PD - No School
Oct. 9-13	Fall Break - No School
Oct. 16	SBDM - 3:30 pm
Oct. 17	Board meeting 5:30 pm