



**COUNTY EMPLOYEES RETIREMENT SYSTEM
MEMBERS POLICY AND PROCEDURES
REGARDING OPEN RECORDS REQUESTS
MADE IN ACCORDANCE WITH KENTUCKY REVISED STATUTES 61.870-61.884**

The Trustee Members of the County Employees Retirement System (CERS) in accordance with Kentucky Revised Statutes 61.876, hereby establishes the following policy and procedures regarding Open Records Requests made in accordance with Kentucky Revised Statutes 61.870-61.884.

- (1) Kentucky Revised Statutes 61.876 provides that "(e)ach public agency shall adopt rules and regulations in conformity with the provisions of Kentucky Revised Statutes 61.870 to 61.884 to provide full access to public records, to protect public records from damage and disorganization, to prevent excessive disruption of its essential functions, to provide assistance and information upon request and to insure efficient and timely action in response to application for inspection."
- (2) The policy of the Trustee Members is to provide broad access to all public records subject to the restrictions imposed by federal and state law. Kentucky Revised Statutes 61.878(1)(l) provides an exemption for public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly. Kentucky Revised Statutes 61.661(1)(a) provides that "(e)ach current, former, or retired member's account shall be administered in a confidential manner and specific data regarding a current, former, or retired member shall not be released for publication." In 13-ORD-008, the Kentucky Attorney General found that denying Open Records Requests for documents regarding individual members of the retirement systems is a proper denial pursuant to KRS 61.878(1)(l). The decision states "...Retirement properly denied [the] request on the basis of [Kentucky Revised Statutes] 61.661(1), incorporated into the Open Records Act by operation of [Kentucky Revised Statutes] 61.878(1)(l)."

The County Employees Retirement System shall not release any information regarding a current, former, or retired member without express written authorization or PIN number from the member or a court order or subpoena from a court of competent jurisdiction, except when the request asks for certain information relating to members or retired members who are current or former officeholders in the Kentucky General Assembly as provided in Kentucky Revised Statutes 61.661(a)(3)(a), in which case the County Employees Retirement System shall provide the requested information as mandated by statute.

(3) Procedures for Accessing Public Records from the County Employees Retirement System:

- A. The County Employees Retirement System shall designate a custodian of records according to their systems' bylaws.
- B. All Open Records Requests received by the County Employees Retirement System shall be forwarded to the Kentucky Public Pensions Authority (KPPA) Office of Legal Services, Non-Advocacy Division, which shall be responsible for responding to all such requests.
- C. Requests under open records must be made in writing and be in sufficient detail to allow the County Employees Retirement System to identify the records requested for review.
- D. Requests may be submitted to the CERS by:
 - (i) Hand delivery at the retirement office;
 - (ii) U.S. Mail;
 - (iii) Electronic mail at openrecords@kyret.ky.gov; or
 - (iv) Fax to (502) 696-8615.

E. Requests for Open Records submitted by U.S. Mail should be addressed to:

Executive Director or designee
Kentucky Public Pensions Authority
1260 Louisville Road
Frankfort, Kentucky 40601

- F. Public records may be reviewed in person at the offices of the KPPA at 1270 Louisville Road, Frankfort, Kentucky during normal business hours, Monday through Friday from 8:00 a.m. to 4:30 p.m., with the exception of state holidays, or when closed to the public during a State of Emergency as declared by the Governor of Kentucky. The respective custodian of records or the Office of Legal Services, Non-Advocacy Division will designate a KPPA employee to monitor any in person inspection.
- G. As provided in Kentucky Revised Statutes 61.870(10), only residents of the Commonwealth of Kentucky may request to inspect public records. A resident of the Commonwealth of Kentucky is defined as: (a) An individual residing in the Commonwealth; (b) A domestic business entity with a location in the Commonwealth; (c) A foreign business entity registered with the Secretary of State; (d) An individual that is employed and works at a location or locations within the Commonwealth; (e) An individual or business entity that owns real property within the Commonwealth; (f) Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in

paragraphs (a) to (e) of this subsection; or (g) A news-gathering organization as defined in KRS 189.635(8)(b)1.a. to e..

- H. The KPPA will respond to all requests under open records as provided in Kentucky Revised Statutes 61.870-61.884. Under Kentucky Revised Statutes 61.880(1) and 61.872(5), responses to Open Records Requests are to be provided within five (5) business days unless more time is needed. If more time is needed, the KPPA will send notice of such which explains the circumstances for any delay. This timeline may also be suspended or extended by Order of the Governor of Kentucky.
- I. If the KPPA deems any responsive records exempt under Kentucky Revised Statutes 61.878, it shall so state the relevant exemptions in its response. If the KPPA deems any sections of the responsive records as needing redaction, it shall state the reasons for each such redaction.
- J. For responsive records in an electronic format sent by attachment to secure email, the KPPA will impose no charge for the production of the records, unless costs were incurred according to sections K and L of this policy. In order to ensure compliance with the provisions of Kentucky Revised Statutes 61.661, which mandates that members' retirement accounts be administered confidentially, the KPPA will convert all records in an electronic format to a non-editable electronic format (e.g. portable document format, or PDF) and otherwise remove any metadata prior to the production of responsive records. For responsive records in an electronic format that are too large to be sent by email, the KPPA will burn such records to a compact disc ("CD") and send the CD by U.S. Mail. Prior to mailing, the KPPA shall provide an invoice to the requestor indicating the costs for production of the records and postage. Upon receipt of payment, the KPPA will mail the responsive records.
- K. The KPPA may charge ten (10) cents per page for copies of records plus postage, if the requester wants the copies sent by U. S. Mail. Upon a request for copies to be mailed, the KPPA shall provide an invoice to the requester consisting of the costs of production and postage. 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 pursuant to Kentucky Revised Statutes 61.874(1). Estimated costs for the production of copies shall be communicated to the requester prior to incurring the costs. Upon written agreement by the requester to the pay the estimated amount, the KPPA will commence production of any copies and communicate the final cost to the requester by invoice. Upon the payment of the invoice, the KPPA shall produce the responsive records to the requester.
- L. The KPPA may recover actual costs and staff costs to produce records when the request specifies production of the records in a nonstandardized format or tailoring the format to meet the request of an individual or a group pursuant to Kentucky

Revised Statutes 61.874(3). Any such costs shall be identified on an invoice. The decision to produce records in a nonstandardized format or tailored to fit the needs of the requester is solely at the discretion of the KPPA.

M. The KPPA may further charge an additional fee to produce copies of records requested for a commercial purpose pursuant to Kentucky Revised Statutes 61.874(4), including the cost of staff time required to produce the records, the cost of mechanical processing, and the cost of media (e.g. a CD). Any such costs shall be identified on an invoice. The KPPA may require a requester to verify whether their request is for a commercial purpose as defined in Kentucky Revised Statutes 61.870.

Signed: Betty A Pendergrass
Chair of the Board of Trustees
County Employees Retirement System

Date: 09/29/2021

Signed: Ed Owens III
Chief Executive Officer
County Employees Retirement System

Date: 09/29/2021