



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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MEMORANDUM

TO: All Superintendents of Public School Districts and School District Attorneys

FROM: Jack Conway
Kentucky Attorney General 

DATE: October 3, 2012

RE: Distribution of written information explaining the Open Meetings and Open Records Acts and proper records retention and management pursuant to KRS 15.257 and 171.223

KRS 15.257 and KRS 171.223 require the Office of the Attorney General to distribute to all superintendents of public school districts and school district attorneys, within ninety days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, written information prepared by the office that explains the procedural and substantive provisions of the Open Meetings Act and the Open Records Act along with information prepared by the Department for Libraries and Archives concerning proper retention and management of public records. The goal of this legislation is to assist the public officials of Kentucky in complying with the laws relating to open meetings and open records as well as records management and retention. The referenced written information, entitled "Your Duty Under the Law" and "Managing Government Records," is attached hereto. We are also providing a link to a public official's training video entitled "Promoting Public Trust: Kentucky's Laws for Open Government." (<http://youtu.be/mZM3urygkbc>) We encourage you to watch the video and to share it with other agency officials and employees.

On July 12, 2012, HB 496, amending KRS 61.870(1)(h), took effect. That amendment redefines the term "public agency" as it relates to bodies that receive at least twenty-five percent of their funds from state or local authority funds. The statute now defines that term as:

Any body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds. However, any funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained through a public competitive procurement process shall not be included in the determination of whether a body is a public agency under this subsection;

Pursuant to KRS 160.395(1), superintendents of public school districts must distribute “Your Duty Under the Law” and “Managing Government Records” to each elected school board member and each school-based decision making council member, as designated in KRS 160.345(2), within their respective districts. Superintendents must distribute the written information to current board and council members within sixty days of receipt of the information from the Attorney General, and to newly elected or appointed board and council members within sixty days of their election or appointment. The information may be distributed by electronic means.

Pursuant to KRS 160.395, superintendents must obtain signed proof from each school board member and school council member that he or she received “Your Duty Under the Law” and “Managing Government Records.” A “Proof of Receipt” form is attached hereto. Superintendents must also certify to the Office of the Attorney General that the written information has been distributed as required. A “Certificate of Distribution” is also attached hereto. Please return the completed “Certificate of Distribution” to:

Leigh Morris
Office of the Attorney General
700 Capital Avenue
Frankfort, KY 40601

We look forward to receiving the “Certificates of Distribution” *only* from you no later than ninety days after receipt of this mailing. Do not return the signed “Proof of Receipt” forms to the Office of the Attorney General. These forms constitute the signed proof which your agency is required to maintain under the terms of KRS 160.395.

We are hopeful that the materials we are providing will promote the goals of KRS 15.257 and 171.223 and enhance your understanding of these laws. Please remember that this is an ongoing statutory duty and that it must be discharged on a continuing basis within sixty days of the election or appointment of all newly elected or appointed officials or members.

Enclosures

- “Proof of Receipt”
- “Certificate of Distribution”
- “Your Duty Under the Law – The Kentucky Open Records and Open Meetings Act”
- “Managing Government Records: An Introduction to Kentucky’s Public Records Management Law”