

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Department for Libraries and Archives

Archives and Records Management Division

(Amendment)

725 KAR 1:025. Transfer of public records.

RELATES TO: KRS 61.878, 171.420, 171.470, 171.480, 171.500, 171.520, 171.550, 171.580, 171.590

STATUTORY AUTHORITY: KRS 171.520(1), (3), 171.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.560 requires the department to promulgate administrative regulations governing the transfer of public records. This administrative regulation establishes the requirements for the transfer of public records from governmental agencies to the department.

Section 1. Definitions.

- (1) "Intellectual custody" means legal ownership and responsibility for governing access to materials, regardless of their physical location.
- (2) "Physical custody" means actual care and control of records for storage, security, and preservation.
- (3) "Public record" is defined by KRS 171.410(1).
- (4) "Transmittal documentation" means a list of records being transferred from an agency to the State Archives or the State Records Centers.

Section 2. For physical transfer of public records from government agencies to one (1) of the facilities of the Department for Libraries and Archives, the agency shall follow the standards and procedures in Transfer of Public Records: A Procedural Guide. Transmittal documentation shall confirm the transfer of government records in all instances.

Section 3.

- (1) Intellectual custody of records in the physical custody of the State Records Center shall remain with the originating agency.
- (2) Physical and intellectual custody of records in the State Archives Center and the Kentucky State Digital Archives shall be transferred to the Department for Libraries and Archives upon accession into the Archives, in accordance with KRS 171.590.
- (3) Records fifty (50) years or older that are not in the department's custody may be directed for transfer for continuing preservation and public access in accordance with KRS 171.580(2), subject to the exemptions of KRS 61.878.

Section 4. Incorporation by Reference.

- (1) "Transfer of Public Records: A Procedural Guide", January 2010, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Archives and Records Management Division, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9:00 a.m. to 4:00 p.m.

(36 Ky.R. 1398; Am. 2060-M; eff. 4-2-2010; 48 Ky.R. 559; eff. 5-3-2022.)

TERRY MANUEL, Commissioner

APPROVED BY AGENCY: July 2, 2021

FILED WITH LRC: July 6, 2021 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 21, 2021, at 10:00 a.m. Eastern Time

at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Commission Room. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.