

Technical Amendment
November 10, 2022
EDUCATION AND LABOR CABINET
(Technical 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 Division of Archives and Records Management, 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; 2060-M; eff. 4-2-2010; 48 Ky.R. 559; eff. 5-3-2022; TAm eff. 11-10-2022.)

FILED WITH LRC: November 10, 2022