

1 KAR 5:010. Accession of public records by means of electronic data processing procedures.

RELATES TO: KRS Chapter 7, Chapter 48, KRS 61.870-61.884.

STATUTORY AUTHORITY: KRS 7.110, 7.320, 48.800, 61.870, 61.872, 61.874, 61.876, 61.878, 61.880, 61.882, 61.884.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 7.110(1) requires the Legislative Research Commission (LRC) to promulgate necessary administrative regulations relating to the accession of those public records in machine readable form that LRC is empowered to inspect. KRS 48.800(5) requires each branch of government to make available public records relating to budgeting in machine readable form, to facilitate their accession by means of electronic data processing procedures employed by the LRC. KRS 61.870 to 61.884 authorizes the inspection of public records, and provides exceptions. This administrative regulation defines essential terms and sets forth general provisions which apply to all public agencies, and their respective budget units that produce machine readable public records subject to inspection by LRC.

Section 1. Applicability. Public records accession administrative regulations shall apply to all public agencies of government and budget units thereof, which utilize electronic data processing equipment and procedures to process public records.

Section 2. Definitions.

(1) "Agency contact" means computer programming and operations personnel designated by the official custodian to work with the Legislative Research Commission to expedite a request.

(2) "Budget unit" means any subdivision of any branch of government, however designated, for which appropriations are requested.

(3) "Computer" means a device capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes. It usually consists of input and output devices, storage, arithmetic, and logical units, and a control unit.

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

(5) "Data" means any or all facts, numbers, letters, and symbols, or facts that refer to or describe an object, idea, condition or situation, which can be processed or produced by a computer.

(6) "Data processing" means the preparation of source media which contain data or basic elements of information, and the handling of such data according to precise rules of procedure to accomplish such operations as classifying, sorting, calculating, summarizing, and recording.

(7) "Electronic data processing" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to reduce to a minimum the need for human assistance or intervention.

(8) "Documentation" means the historical reference and group of techniques necessary to detail the structure, organization, and presentation of recorded specialized knowledge in machine readable form.

(9) "Electronic data processing equipment" means a machine, or group of interconnected machines, consisting of input, storage, computing, control, and output devices, which uses electronic circuitry in the main computing element to perform arithmetic and/or logical operations automatically by means of internally stored or externally controlled programmed instructions.

(10) "File" means an organized collection of information directed toward some purpose.

(11) "Legislative Research Commission" means the Legislative Research Commission, its co-chairmen or director, any other member of the General Assembly authorized by the director, or any employee authorized by the director.

(12) "Machine readable" means information in the form of magnetic code or optical image that can be processed directly by computers and other related machines.

(13) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

(14) "Public agency" means 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, committee, subcommittee, ad hoc committee, council or agency thereof; and other body which is created by state or local authority and which derives at least twenty-five (25) percent of its funds from state or local authority.

(15) "Public record" means all official books, papers, exhibits, cards, tapes, discs, diskettes, readings, electronic images, electronic optical images or documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency.

(16) "Read only access" means the ability to enter and make use of data stored in machine readable files, without altering its contents or form, or the file structure.

Section 3. Right to Inspection.

(1) All public records in machine readable form not subject to restrictions provided in KRS 61.870 to 61.884 shall be made available by each public agency for inspection by the Legislative Research Commission. The official custodian of each public agency shall maintain and make available for copying a list, updated annually, detailing all computerized record systems and describing the machine readable records therein. This list shall be developed using records management standards established by the Department of Libraries and Archives pursuant to KRS 171.520 and 171.530.

(2) The Legislative Research Commission shall have the right to inspect public records in machine readable form. The Legislative Research Commission shall notify the official custodian of its intention to inspect records and shall describe the records to be inspected. Within three (3) days of receiving the request, the official custodian shall instruct public agency personnel responsible for computer programming and operations to meet with Legislative Research Commission personnel at the earliest mutually agreeable time. When the assistance of the Department of Information Systems is necessary in order to comply with the Legislative Research Commission's request, Department of Information System personnel shall attend the meeting at the direction of the agency contact.

(3) All meetings pursuant to this administrative regulation shall be for the purpose of defining the scope of the intended record inspection. Accordingly, meeting discussions shall include, but shall not be limited to, the following considerations:

- (a) The feasibility of read only access;
- (b) The manner in which the Legislative Research Commission plans to access the desired records;
- (c) The manner in which the public agency will make access available;
- (d) The characteristics and validity of the data to be accessed;
- (e) The format and structure of records files;
- (f) The time period access is to be valid, if access is feasible;
- (g) The security requirements for file access;
- (h) The level of effort, cost and time required to expedite the request;

(i) A mutually agreed upon priority assignment to expedite the request in a timely fashion.

(4) If the person to whom the application for inspection is directed does not have custody or control of the public record requested, he shall notify the Legislative Research Commission and shall furnish the name and location of the custodian of the public record.

(5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the Legislative Research Commission and shall designate a place, time and date for inspection of the public records, not to exceed three (3) days from the receipt of the request or the application, unless a detailed explanation of the cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection is indicated. If the official custodian refuses to comply or determines the public agency cannot comply with the Legislative Research Commission's request to inspect records pursuant to meeting with Legislative Research Commission personnel, then he shall, within three (3) days following the meeting, provide a detailed explanation of the cause for noncompliance to the Legislative Research Commission personnel initiating the request.

Section 4. Copies of Records. Upon inspection, the Legislative Research Commission shall have the right to make copies of any machine readable public records and related documentation. If electronic data processing equipment utilized by LRC at the time of the request cannot provide such copies, the custodian shall make available to the Legislative Research Commission duplicates of the records inspected.

Section 5. Agency Procedures. In order to insure efficient and timely action in response to a request for inspection, each public agency shall provide the following information to the Legislative Research Commission:

- (1) The principal office of the public agency and its regular office hours;
- (2) The title and address of the official custodian of the public agency's records;
- (3) The procedures, consistent with this administrative regulation, to be followed in requesting access to public records in machine readable form. The cabinet for finance and administration may promulgate uniform administrative regulations governing these procedures.

(12 Ky.R. 456; eff. 11-12-1985; Crt eff. 2-19-2020.)