



# OPEN RECORDS REQUESTS

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*Skill share on filing open records requests with  
government entities*

*Bret Walker, March 9, 2019*

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I'm not a lawyer.

- *Me*

# LAWS

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- Two domains — state and federal
- Kentucky Open Records Act (KORA)
  - Kentucky Revised Statutes (KRS) Chapter 61.870 - 61.884
- Freedom of Information Act (FOIA)

# WHAT ARE “OPEN RECORDS?”

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- Also known as “public records”
- Kentucky’s definition (KRS 61.870)
  - “Public record” means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency
- Federal government definition:
  - No definition! — FOIA.wiki says, “The FOIA does not specifically define ‘agency record,’ although it defines a ‘record’ as ‘any information that would be an agency record subject to the requirements of [FOIA] when maintained by an agency in any format, including an electronic format; and any [such] information . . . that is maintained for an agency by an entity under Government contract, for the purposes of records management.’”

# ACCESSING PUBLIC RECORDS

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- Who has access?
  - Pretty much anyone!
  - Kentucky
    - KRS 61.872 — Any person shall have the right to inspect public records.
    - 61.874 — Noncommercial use only, except for use by a “newspaper, periodical, radio or television station”.
  - Federal
    - Digital Media Law Project says, “The Freedom of Information Act ("FOIA") gives the right to request access to government records to any person for any reason, whether the person is a U.S. citizen or a foreign national.”

# RESTRICTIONS

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Between KORA and FOIA, there are lots of exemptions to what must be released. Check out [KRS 61.878](#) and [FIOA.wiki Exemptions](#) for detailed lists and descriptions.

In general, I think of exemptions as being around things that are:

- Private/confidential (personal privacy, legal correspondence)
- Secret (law enforcement investigation)
- Preliminary work

*And a good one from KORA: “test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again”*

# MAKING A REQUEST

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- Try to figure which agency has the record
- Use a template or previous request as a starting point for your request
- Submit the request
- Follow up
- Appeal
- Re-submit if necessary

# File, track, and share public records requests.

[File a Request](#)

[Explore filed requests or learn how it works.](#)

<b>60,189</b> filed requests	<b>13,027</b> agencies	<b>18,033</b> fulfilled requests
<b>3,963,137</b> released pages		

## Recently completed requests

[See all →](#)

**Completed** 1 file

**Adoption of G.L. Chapter 258, Section 13, or G.L. Chapter, 41, Section 100.**

Mary Connaughton Pioneer Institute sent this request to the [Weston Town Clerk of Weston, MA](#)

# MUCKROCK

- Non-profit website that helps you submit, manage, and process open records requests.
- They figure out where to send the request
- They follow up on unanswered requests
- They host responsive documents
- They have a community to help you

<https://www.muckrock.com>

**Newsletter**  
Want the latest investigative and FOIA news?



# LET'S FILE A REQUEST

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- Go to Muckrock and search for an agency you're interested in getting info from
- Look through previous requests to see if any are interesting to you
- Copy one, customizing it to get the data you're interested in
- Send it to Bret, and he'll file it using the CFK Muckrock account (or feel free to do it yourself if you don't mind paying)
- You must agree not to use any of the responsive records in ways not consistent with the law (e.g. for a commercial purpose)

# POTENTIAL REQUESTS

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- Communications from government officials regarding a specific topic during a specific time frame:
  - *Any and all records, memos, and electronic communications from January 1, 2018 to the present (e.g. text messages, emails, direct messages on social media apps such as Twitter, Facebook, Snap Chat, etc.) of Governor Matt Bevin and any and all of his staff and the teams/offices within the Office of Governor regarding, concerning or containing information about teacher walkouts, teacher pension, teacher rallies, public education financing, and the state takeover of Jefferson County public schools. <https://www.muckrock.com/foi/kentucky-147/ky-gov-bevin-comms-teachers-58174/>*
- Contracts between universities and vendors:
  - *I am requesting a copy of the contract signed between the University of Kentucky Athletic program and the vendor who provided services for the 2018 Kentucky Men's Basketball tour to the Bahamas in August 2018. I am also requesting a copy of the final itinerary for the trip. <https://www.muckrock.com/foi/kentucky-147/university-of-kentucky-m-basketball-2018-summer-tour-to-bahamas-63143/>*
- FBI files on deceased persons:
  - *All files on or related to Hedy Lamarr, the famous actress and inventor. Lamarr is also known as Hedy Kiesler Markey (one of her married names), which was used for her U.S. patents. Proof of death is not required, as Lamarr was born over 100 years ago in 1914. <https://www.muckrock.com/foi/united-states-of-america-10/hedy-lamarr-68962/>*