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MEMORANDUM

To: Kumble Subbaswamy, Provost
Richard Greissman, Assistant Provost

From: Marcy Deaton
Office of Legal Counsel

Date: January 13, 2012

RE: Kentucky Open Records Law: **KRS 61.872, KRS 61.878, KRS 61.884**

Per your request, this memorandum outlines the Kentucky Open Records Law for University faculty employees who request to see her/his own employment records and files, dossier, etc. Under Kentucky Law an individual has the right to access not only his or her standard personnel file, but also **"any public record relating to him"**. There is no distinction between a file in HR, Employee Benefits, the department chair's, or the dean's office. Likewise, there is no distinction between a final file, a preliminary file, supporting documentation in the file, a dossier, etc. Thus, the faculty employee can review his or her dossier or other documentation at any time during the review process. The legal reasons for this position are explained below.

KRS 61.878 specifically gives university employees the right to "inspect and copy any record that relates to him or her". The statute makes it very clear that everything and anything related to the individual's employment must be made available to the employee upon request. The statute's relevant section reads,

"No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible [candidate] on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations,

promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation."

In addition, KRS 61.884 states, "Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification..."

The language in these statutes is clear; to deny access to such records would be a violation of state law.

Given the clarity of these laws in granting employees full access to their employment-related records, the University has not historically required its employees to go through the formal Open Records request process, but instead has handled such requests informally. The formal process includes a mandatory 3-day turnaround time for producing the records, which is coordinated by the Office of Legal Counsel. The language in a memo that has historically been sent from the president's office over the past 20-25 years reads as follows: "University employees, of course, have complete access to their own faculty and staff personnel files in department or college offices or at the Employee Records Office. No formal request need be made by a University employee through the Open Records process to access his or her file."

Finally, in Ethical Principles and Code of Conduct (GR I.D.1.c), the following statement is applicable to one who would deny an employee access to her/his records: "Each member of the University must endeavor to...comply with the policies and procedures of the University of Kentucky and applicable state and federal laws and regulations."

The full text of the applicable Kentucky Laws:

<http://www.lrc.ky.gov/KRS/061-00/884.PDF>

<http://www.lrc.ky.gov/KRS/061-00/878.PDF>

<http://www.lrc.ky.gov/KRS/061-00/872.PDF>