COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
SEVENTH DIVISION
CIVIL BRANCH

Hongbin Zhang, Ph.D. Plaintiff v. University of Kentucky Defendant	Case Number 2026-CI-02711 **PARTIAL SUMMARY JUDGMENT**

This matter is before the Court on Plaintiff Hongbin Zhang, Ph.D.'s Motion for Judgment as to willful Open Records Act violations. The Court has reviewed the Motion, Defendant University of Kentucky's Response, Plaintiff's Reply, the record, the Court's June 30, 2026 Order, and the governing law. Being otherwise sufficiently advised, the Court FINDS AND CONCLUDES:

1. CR 56.01 and CR 56.03 authorize partial summary judgment on liability although the amount of recovery remains for determination. Under KRS §61.882(3), the University bears the burden of proving that its withholding complied with the Open Records Act ("ORA"). The University has identified no genuine issue of material fact preventing judgment on the violations addressed below.
2. Dr. Zhang was a current University employee when he requested records concerning his terminal reappointment, reconsideration, PAPTAC appeal, Equal Opportunity Office proceedings, and related faculty-review processes. The requested PAPTAC report and its supporting materials directly related to Dr. Zhang and his appeal.
3. The University expressly recognized KRS §61.878(3), yet invoked KRS §§61.878(1)(i) and (j) to withhold and heavily redact the PAPTAC report and related employee records. It also refused responsive communications on an asserted burden theory and failed adequately to identify records withheld, redacted, or not located. KRS §61.878(3) protects

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a current university employee's right to inspect and copy "any record including preliminary and other supporting documentation that relates to him or her." The identified PAPTAC records are not examinations or records of an ongoing criminal or administrative investigation.

4. The University's generalized exemption and burden assertions did not satisfy KRS §61.880(1) or KRS §61.872(6). It supplied no affidavit, index, search evidence, volume calculation, or other proof sufficient to carry its burden. *See Shively Police Department v. Courier Journal, Inc.*, 701 S.W.3d 430, 437-39 (Ky. 2024). The University's later production of unredacted material after judicial intervention did not cure the completed statutory violations.

5. The violations were intentional and willful within KRS §61.882(5). The University knowingly chose to withhold records despite the controlling employee-access provision, without particularized factual support, and persisted after notice of Dr. Zhang's statutory rights. This was not a technical error or a good-faith but mistaken exemption claim; it was withholding without plausible justification and with conscious disregard of the requester's rights. *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 854 (Ky. 2013); *Bowling v. Lexington-Fayette Urban County Government*, 172 S.W.3d 333, 343-44 (Ky. 2005). This finding rests on the University's withholding conduct, not its right to litigate or appeal.

6. Dr. Zhang has prevailed at least in part within KRS §61.882(5). This merits determination supplies the prevailing-party determination contemplated by *Shively*, 701 S.W.3d at 445. In the exercise of its statutory discretion, the Court further determines that Dr. Zhang shall recover reasonable costs and attorneys' fees incurred in connection with this ORA action, including reasonable work necessary to obtain, preserve, and enforce ORA relief in this Court and on appeal, and an appropriate statutory *per diem* award. *See* KRS §61.882(5);

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Commonwealth, Cabinet for Health & Family Services v. Lexington H-L Services, Inc., 382 S.W.3d 875, 884 (Ky. App. 2012); *City of Taylorsville Ethics Commission v. Trageser*, 604 S.W.3d 305, 314-15 (Ky. App. 2020). Only any justification on the part of the University, the appropriate *per diem*, the amounts and proper allocation remain for determination.

ORDER

IT IS THEREFORE ORDERED:

1. Plaintiff's Motion is GRANTED as to liability, willfulness, prevailing-party status, and entitlement to statutory relief.
2. PARTIAL SUMMARY JUDGMENT is entered for Plaintiff Hongbin Zhang, Ph.D. and against Defendant University of Kentucky on the ORA violations identified above.
3. The amount of Plaintiff's reasonable attorneys' fees and costs, the number of compensable records and days, the appropriate *per diem* rate, allocation, and any supplemental award are RESERVED.
4. A damages and statutory-relief hearing limited to those reserved amounts shall be held before this Court on Tuesday, December 15, 2026, at 1:00 p.m. Liability, willfulness, prevailing-party status, and entitlement shall not be relitigated at that hearing.
5. For the statutory *per diem* determination, the burden of proof and production remains on the University under KRS 61.882(3). The University shall address its degree of culpability and shall prove any mitigating fact or other basis it contends warrants less than the maximum *per diem* amount authorized by KRS §61.882(5). *See City of Fort Thomas*, 406 S.W.3d at 854-55. Any failure of proof shall be resolved against the University.
6. The Court reserves any attorney fee and cost itemization until after the December 15, 2026 Hearing.

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7. The Court retains jurisdiction to award supplemental Circuit Court and appellate fees and costs incurred through enforcement and final resolution of the ORA claims.
8. All remaining claims and record categories are reserved. This Partial Summary Judgment is interlocutory and shall remain subject to further order until entry of final judgment.

SO ORDERED this _____ day of _____, 2026.

/s/ JUDGE DIANE MINNIFIELD
electronically signed
09/30/2026 11:00:16 AM ET

JUDGE, FAYETTE CIRCUIT COURT

IN ACCORDANCE WITH THE COURT'S RULINGS:

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Copies to counsel of record via Courtnet.

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