

2-2022 | Open Records Request

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I. Authority

The objective of this policy is to establish a proactive process for the public to request records from the Military Interstate Compact Children's Commission (MIC3). This policy is intended to set guidelines for how to request records and establish a reasonable time frame for the Commission to return the requested records.

II. Applicability

The MIC3 is a quasi-governmental agency and is located in Lexington, Kentucky. MIC3 operates independently of state statutory mandates regarding public records and is not a public agency as defined by KRS 61.870 et. seq., otherwise known as the Kentucky Open Records Act. However, this policy hereby affirmatively incorporates the provisions of KRS 61.870 to 61.884 as a matter of organizational policy to the extent reasonably applicable. This policy applies to citizens, corporations, associations, public interest groups, private individuals, and universities who submit an Open Records request to MIC3.

III. Definitions

- A. Public record** - A public record is defined as the original or copy of any documentary material in any form, to include written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps, and drawings created or received by the Commission in connection with the transaction of public business.
- B. Privacy** - Performance data and personally identifiable student information data need to be kept safe, private, and follow federal and state standards and laws, including the Family Educational Rights and Privacy Act (FERPA), to maintain student data security and privacy. While the data used by the Commission is comprehensive, the data made available to the public may be redacted to avoid unintended disclosure of personally identifiable information in school or state level reports.
- C. Exempt Records** – Consistent with Article IX.F. of the model Compact statute, the Commission may withhold public records consistent with any applicable exemptions set forth in KRS 61.878. This may include but is not limited to:
 - 1. Benefit Selections/Payroll Deductions
 - 2. DD-214s (military discharge forms)
 - 3. Financial Records
 - 4. Health Insurance Records
 - 5. Medical Records
 - 6. Commendations
 - 7. Driver's License Information
 - 8. Law Enforcement Records
 - 9. Personally Identifiable Student Records
 - 10. Employee Personnel Records
 - 11. Communications protected by attorney-client privilege

12. Preliminary drafts, recommendations, and memoranda not adopted as final Commission policy

- D. FERPA - (20 U.S.C. § 1232g; 34 CFR Part 99) is a [federal law](#) that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.
- E. Commercial Purpose - [KRS 61.870\(4\)](#) defines “commercial purpose” as “the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.” However, “commercial purpose” does not include the publication or related use of the public record by a newspaper or periodical, by a radio or television station in its news or informational program, or by use in the prosecution or defense of litigation by the parties to such an action or their attorney.

IV. Process

- A. A request for public records shall adhere to the following:
 - 1. The request shall be made using the Open Records request form.
 - a. Requester shall fill out the form in its entirety and include the requester’s name and contact information, and state they reside in.
 - b. Consistent with [KRS 61.874\(2\)\(a\)](#), the requester shall indicate whether they desire hard or electronic copies; the request shall include a specific description of the public records requested in as much detail as possible; and the requester shall indicate whether or not the records sought are for a commercial purpose as defined by [KRS 61.870\(4\)](#).
 - 2. Response
 - a. The Commission shall provide a response to the records requester within five (5) business days of the date the request is received. Notice promptly shall be sent to the requesting party if additional time is needed consistent with [KRS 61.872 and 61.880](#) to respond to the request.
 - b. When a response is delayed, the Commission shall specifically indicate to the requester that additional time is required to process the request and explain the circumstances justifying additional processing time.
 - 3. Cost Estimate
 - a. The Commission shall provide the requester with a cost estimate. This may include, but is not limited to administrative fees, legal counsel service fees, and hard copy fees, if applicable.
 - b. Hard copies of the public records of MIC3 shall be furnished to any requester, on payment of a fee of ten (10) cents a page, but electronic copies shall be provided via email whenever possible, at no cost. If providing electronic copies via email is not possible, the fee charged to the requester will be ten (10) cents a page and postage of packages up to fifty (50) dollars. The requestor shall be notified if postage cost exceeds this threshold.
 - c. Copies of nonwritten records (photographs, material stored in computer files or libraries, etc.) shall be furnished on request, on payment of a charge equal to the actual cost of producing copies of such records by the most economic process not likely to damage or alter the record.
 - d. If applicable, the Commission may require payment in advance.

4. State Records

- a.** For situational awareness, the national office will inform the relevant Commissioner when a request for records held by an individual state is submitted to the Commission.
- b.** Requests for state-specific data or information otherwise held by an individual state are governed by the laws of that specific state rather than Commission policy.
- c.** The National Office will notify the requester that the requested records are not Compact or Commission-related and fall outside the scope of this policy.
- d.** It is the sole responsibility of the requesting party to research the specific state's open records laws and submit their request directly to the appropriate state agency.
- e.** Neither the National Office nor the state's Commissioner are responsible for processing, facilitating, or assisting with requests for records maintained by an individual state.

Any request not outlined in this document will be reviewed by the Executive Committee for determination.