

## The Tension of Competing Values

Aug. 8, 2016

Campus Community,

*Our University has been involved in a series of legal actions regarding open records and meetings. When we make decisions about what records we share with the public, we are guided by the values we cherish, acknowledging that sometimes the values of safeguarding the privacy of members of our community and the need for transparency in the operations of public entities such as ours can be in tension with one another. When the media or private citizens request information and we decline to provide it, they can appeal to the state Office of the Attorney General.*

*Against that backdrop, we will be providing the following statement to the media and others who are interested in these issues and the university's basis for our legal position:*

### **Statement on appeal of recent Office of the Attorney General opinions**

In the coming weeks, we will be appealing a number of opinions from the Office of the Kentucky Attorney General regarding questions about open records and meetings. In the issues before the Office of the Attorney General, and now the courts, the responsibility to share information is at odds with another sacred responsibility: protecting the privacy of our students, faculty, staff and those for whom we provide care. And in these moments of conflict, we believe strongly in the need to protect the privacy of members of our community: our students, patients, faculty, and staff.

We respect the role the Office of the Attorney General plays in ensuring the people of Kentucky have access in an open and transparent fashion to the actions of public agencies, including universities. And we respect the role the media and private citizens play in ensuring transparency and accountability.

As the university **for** Kentucky, a foundational value must always be the free, open and vigorous exchange of ideas. It is the bedrock of a university where people learn and discover each day and the values of academic freedom and creative scholarship flourish.

As the state's largest university and its flagship, land-grant institution, we received about 800 open records requests last year alone, likely more than any single institution in the Commonwealth. And we fully and quickly complied with more than 90 percent of them.

But in a handful of very specific cases, we are faced with the decision of whether transparency is more important than the need to protect the privacy and dignity of individual members of our community. It is not. For example, we will never disclose the name of a victim of violence who comes forward to reveal a traumatic experience with an expectation of confidentiality. This protection is essential not only to the well-being of a particular victim, but also goes to the confidence other victims will have that they, too, can come forward, in safety and confidentially, so that we can investigate allegations of wrong-doing and enforce appropriate disciplinary action against perpetrators. It also goes to protecting the identities of those accused of wrong-doing.

In addition, we will not provide information about the course of treatment for a dire disease that a patient receives from one of our providers. And we will not grant access to private and preliminary information – whether it involves a grade point average or a disciplinary file -- concerning our

students, faculty and staff. Moreover, we will not reveal the confidential communications with our attorneys – a privilege we all expect and share.

We believe the confidential nature of each of these instances is protected by both federal and state law. Protecting and preserving that confidentiality is fundamental to ensuring Kentucky's flagship and land-grant research university effectively operates at all levels – from a first-year teaching assistant to the Board of Trustees. The Office of the Attorney General, in a number of recent opinions, disagrees with our stance as do media that are exercising their duty to pursue information.

That is why it is appropriate – and our responsibility – to now pursue a resolution to these respectful differences of opinion in a court of law.

Thank you for what you do to make these values real and tangible for all of us who call this special place home.

Eli Capilouto  
President  
University of Kentucky