

**161.585 Account of member, and medical records on file, confidential -- Production of records in response to a subpoena or court order.**

- (1) For purposes of this section, the term "records" shall include retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.
- (2) Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member; however, the board of trustees may release member account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law.
- (3) Medical records which are included in a member's file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member in writing or as otherwise provided by law or in response to a lawful subpoena or order issued by a court of law.
- (4)
  - (a) When a subpoena is served upon any employee of the Kentucky Teachers' Retirement System requiring the production of any data, information, or records, it is sufficient if the employee of the Kentucky Teachers' Retirement System charged with the responsibility of being custodian of the original, or his or her designated staff, delivers within five (5) working days by certified mail or by personal delivery to the person specified in the subpoena either of the following:
    1. Legible and durable copies of records certified by the employee or designated staff; or
    2. An affidavit stating the information required by the subpoena.
  - (b) The production of records or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Teachers' Retirement System unless, after the production of records or an affidavit, a separate subpoena is served upon the retirement system specifically directing the testimony of an employee of the retirement system. When a subpoena is served on any employee of the retirement system requiring the employee to give testimony or produce records for any purpose, in the absence of a court order requiring the testimony of or production of records by a specific employee, the system may designate an employee to give testimony or produce records upon the matter referred to in the subpoena. The board of trustees may promulgate an administrative regulation for the recovery of reasonable travel and administrative expenses for those occasions when an employee of the retirement system is required to travel from his or her home or office to provide testimony or records. Recoverable expenses may include the wages, salary, and overtime paid to the employee by the retirement system for the period of time that the employee is away from the office. The cost of these expenses shall be borne by the party issuing the subpoena compelling the employee's travel. The board of trustees may also promulgate an

administrative regulation establishing a reasonable fee for the copying, compiling, and mailing of requested records.

- (5) The certification shall be signed before a notary public by the employee and shall include the full name of the member, the member identification number assigned to the member by the retirement system, and a legend substantially to the following effect: "The records are true and complete reproductions of the original, microfiched, or electronically stored records which are housed in the retirement system's office. This certification is given in lieu of the undersigned's personal appearance."
- (6) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove receipt of the affidavit or copies of records.
- (7) When the affidavit or copies of records are delivered to a party for use in deposition they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.
- (8) Upon completion of delivery by the retirement system of copies of records by their deposit in the mail or by their personal delivery to the requesting party, the retirement system shall cease to have any responsibility or liability for the records and their continued maintenance in a confidential manner.
- (9) Records of the Kentucky Teachers' Retirement System that are susceptible to reproduction may be proved as to foundation, identity, and authenticity without preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this section.
- (10) The provisions of this section shall not be construed to prohibit the Kentucky Teachers' Retirement System from asserting any exemption, exception, or relief provided under the Kentucky Rules of Civil Procedure or other applicable law.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 148, sec. 11, effective July 15, 2010; and ch. 164, sec. 8, effective July 1, 2010. -- Amended 1990 Ky. Acts ch. 442, sec. 12, effective July 1, 1990; and ch. 476, Pt. V, sec. 521, effective July 13, 1990. -- Created 1980 Ky. Acts ch. 206, sec. 16, effective July 1, 1980.

**Legislative Research Commission Note** (7/1/2010). This section was amended by 2010 Ky. Acts chs. 148 and 164 which are in conflict in their use of the terms "documents" and "records" in this section. Pursuant to KRS 446.250, Acts ch. 164 which was last enacted by the General Assembly prevails; however, four instances of the term "documents" in subsection (4)(b) of this section have been changed in codification to "records" in order to use the term consistently and in accordance with its meaning as set forth in subsection (1) of this section. This change was made by the Reviser of Statutes under the authority of KRS 7.136(1).

**Legislative Research Commission Note** (7/13/90). The Act amending this section prevails over the repeal and reenactment in House Bill 940, Acts Ch. 476, pursuant to Section 653(1) of Acts Ch. 476.