

Exhibit C



OFFICE OF THE GENERAL COUNSEL

February 15, 2022

Dear Deborah:

Please allow this letter to serve as a response to your most recent open records request and the second and final response for electronic files on your desktop. With this correspondence and the accompanying documentation, the University, including by and through counsel, has responded to all requests for documentation submitted by you or through former counsel, Kathleen Schoen, or current counsel, Matt Baker.

Given the copious number of requests you have submitted since December 6, 2020, I feel compelled to provide a summary of the open record requests you have made of this office and the volume of documents produced by the University in response to each.

On December 6, 2020, you submitted a request for an investigation file prepared by a third party firm retained by WKU. Given the nature of that investigation, the file had to be carefully reviewed for information that was potentially protected by the attorney-client privilege or otherwise exempt from the Open Records Act. Ultimately, in response to that request, the University produced **2,876 pages** of documents.

On September 1, 2021, you submitted a request for contracts and payment history for third party vendor, Sibson/Segal. The University produced **53 pages** of documents.

On October 7, 2021, you submitted a request for source of funding documentation for two positions. The University consulted with two departments in the division of Strategy, Operation and Finance to locate potentially responsive documents, and ultimately produced **4 pages** of records in response. While not reflected in the size of the production, significant University resources were expended responding to this request. After the initial production, you challenged the University's response and demanded proof of the *absence* of documents, a task that is virtually impossible and exceptionally time consuming.

On October 7, 2021, you also requested all records that relate to you from July 1, 2019 through September 24, 2021 created or generated by a list of fourteen University employees and Board members. As well, you demanded all electronic mail messages created or generated from the same period that referenced your name or positions held at the University. That required the University to search in excess of 20,000 email accounts for potentially responsive documents. 4,092,276 records were identified by the University's IT department using the earchiver system. It would have been virtually impossible—and incredibly burdensome—for this office to review

The Spirit Makes the Master

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each of those documents to determine whether they included privileged information and whether they were otherwise exempt under the Open Records Act. Therefore, the University elected to limit its search parameters to the email accounts of the fourteen individuals you listed in the first subpart of your request. The University ultimately produced an additional **1,115 pages** of documents, all of which had to be carefully reviewed for privilege before being produced.

We should note that the University produced those documents to you on a rolling basis to expedite the production, and reproduced the documents in full with the final production. When the University made its rolling production, you often responded almost immediately making further demands or inquiries. For instance, you were given the opportunity to provide additional names to search through the earchiver system, but did not comply. Instead, you maintained the response was insufficient because not all university emails referencing you or your position for the two-year period of your request were produced. It became apparent that your goal was to monopolize the resources of the Office of General Counsel, IT, and the Administration.

Between December 2021 and January 2022, your current and former counsel made additional requests to the University for documents related to you. The University complied with those requests, producing your personnel file, (**74 pages**), pay-stubs and W-2s, (**251 pages**), leave balance and benefit documentation stored in the TopNet system, (**5 pages**), an Excel spreadsheet of your Outlook contacts, copies of Outlook calendar from November 2021 – June 2022, (**8 pages**), and a 2022 Performance Development Reflection and Goal Setting document (**9 pages**). These productions required significant coordination and effort among various University departments.

On January 10, 2022, you requested all messages and attachments sent or delivered to deborah.wilkins@wku.edu from November 22, 2021 through January 10, 2022. In response to this request, the University produced **26,520 pages** of emails, all but 20 of which were retail advertisements and political newsletters. All of this information, though, had to be reviewed by the Office of General Counsel before being produced to ensure that no privileged information was contained therein.

On January 15, 2022, you requested all complaints or reports of inappropriate use of your email account. Additionally, you sought documentation from the WKU official who authorized that your email account remain active. The University, through counsel, responded that it did not have any responsive documents.

On January 26, 2022, you requested copies of any electronic records of your annual activity report and/or performance self-evaluation documents submitted to former Provost Stevens or current Provost Fischer citing WKU's Academic Affairs policy for producing faculty personnel files. You were provided a 2020-21 self-assessment form as well as all documents maintained in Academic Affairs which comprised your employee file. In total, **82 pages** of documents were produced to you in response to your request.

Also on January 26, 2022, you requested all messages or attachments sent or delivered to deborah.wilkins@wku.edu from January 10, 2022 through January 18, 2022. In response to this request, the University produced **2,876 pages** of emails, almost all of which were personal emails, and again, each email had to be reviewed for privilege in advance of production.

You submitted a third request for records on January 26, 2022 repeating demands from a prior letter sent by your current counsel, Matt Baker, requesting that you be provided copies of personal items stored on the hard drive of the computer you utilized during your employment with the University, to include files from folders titled “Wilkins Personal” and “Dad” folders.

The contents of those folders were produced to you on February 1, 2022, which contained an additional **4.02 GB of data** consisting of **858 files**, all of which had to be reviewed for privilege and compliance with the Open Records Act before being produced. Though those folders were given names indicating that their contents were personal in nature, it was immediately apparent that they included information related to the University, and to a potential lawsuit you had been preparing to file against the University since at least the Spring of 2021. Although that information was produced to you on February 1, 2022 via ShareFile, our records indicate you did not access the information until February 8, 2022 at 2:42 p.m.

You were also advised on February 1, 2022 that additional files identified in your Open Records Requests were voluminous, and required additional review to determine whether they were required to be produced under the Open Records Act—particularly with concerns of attorney-client privilege. That data, consisting of an additional **599 MB of data**, has now been reviewed, and can be accessed here:

<https://middletonlaw.sharefile.com/f/fof88cc9-ac32-4148-b364-e830c0d52e9>

The University has not produced certain information on the hard drive, none of which “relate to” you, as identified below and for the following reasons:

- From a subfolder titled “Email during EPAF and IE Form Process” in the “DTW TP Coordinator Position” subfolder on the Desktop, 16 email messages stored on the hard drive concerning communications with outside counsel for WKU related to involuntary salary reductions and one word document containing notes from a meeting concerning the same. These emails are withheld on the basis that they contain preliminary correspondence, memoranda and recommendations related to confidential attorney-client communications between WKU and its counsel. (KRS 61.878(1)(i) and (j)).
- From a subfolder titled “IE form date email” in the “DTW T9 Coordinator Position” subfolder on the Desktop, 5 .eml email messages stored on the hard drive concerning communications with counsel for WKU related to involuntary salary reductions. These emails are withheld on the basis that they contain preliminary correspondence, memoranda and recommendations related to confidential attorney-client communications between WKU and its counsel (KRS 61.878(1)(i) and (j)).
- From the subfolder titled “GC” in the “WilkinsPersonal” subfolder on the desktop, 43 subfolders and their contents totaling 130MB of data. These documents are withheld on the basis they contain preliminary correspondence, memoranda and recommendations related to confidential attorney-client communications between WKU and its counsel on various matters pertaining to WKU proposed actions. (KRS 61.878(1)(i) and (j)).

- From the subfolder titled “photoshop” in the “WilkinsPersonal” subfolder on the desktop, a .pdf document titled “MorrisLetter.pdf” regarding graduate admission determination. This letter is withheld under KRS 61.878(1)(a).
- From the subfolder titled “2020-2021 Investigation Files” in the subfolder “Title IX All”, four subfolders and their contents totaling 28MB of data. These documents contain confidential investigatory files, preliminary correspondence, memoranda and recommendations related to complaints and or investigations, and attorney-client privileged communications. They are withheld under KRS 61.878(1)(a), (i) and (j).
- From the subfolder “July 2020 to Dec 2020 Report” in the subfolder “Title IX All”, a subfolder and two .msg email messages totaling 162KB of data containing confidential investigatory files, preliminary correspondence, memoranda and recommendations related to complaints and or investigations pertaining to sexual assault, and attorney-client privileged communications. They are withheld under KRS 61.878(1)(a), (i), (j) and (q).
- From the “Music” folder, six .m4a files containing statements obtained related to complaint investigations. These files contain confidential information of a personal nature and alleged sexual assault. They are withheld under KRS 61.878(1)(a) and KRS 61.878(q).

Finally, as it relates to your January 26, 2022 request for digital files, you wrote again to the University on February 8, 2022 asserting that the February 1, 2022 limited production was incomplete. On page 3 of that letter, you indicate that a folder labeled “Wilkins Personal,” “Dad,” and “Annual Activity Report” have not been produced.

- Wilkins Personal folders. The hard drive only contained one folder titled “WilkinsPersonal.” That folder contained numerous subfolders, the contents of which have been produced in their entirety now with the exception of the limited files identified in this letter.
- “Dad” folder. This was a subfolder of the “WilkinsPersonal” folder on the desktop. The “Dad” folder contained numerous subfolders, such as “Final Docs”, “Inventory Docs” “Tax Return”, “USAA”, etc. These subfolders were produced to you in their entirety through the link provided on February 1, 2022. The “Dad” folder also contained various files (mostly word documents, a few excel/workbook files, a few .pdf files, and one email message). These were all produced to you on February 1, 2022, with the exception of a few word documents pertaining to claims related to WKU. Those files are contained in the final production, the link to which is contained above in this letter.
- “Annual Activity Report” subfolder in “Title IX All”. There is no subfolder titled “Annual Activity Report” on the hard drive. However, there is a subfolder titled “Annual Activity Report Priorities.” To the extent that is the folder you are referring to, that subfolder is contained in the final production, the link to which is contained above in this letter.

On February 2, 2022 you submitted an Open Records Request “for all electronic messages, sent via email to Tim Caboni, Cheryl Stevens, and/or Robert (Bud) Fischer from June 1, 2020

through November 22, 2022 with attachment and title including some or all of the following words or phrases: Title IX activity report, Confidential, Activity Plan, and Action Plan.” The search conducted by IT utilizing the earchiver system resulted in **81 pages** of documents, which will be sent to you through the WKU Secure Share drive contemporaneous with this correspondence.

After reviewing the email resulting from this search, this office requested IT conduct a subsequent search for email to Tim Caboni, Cheryl Stevens, and/or Robert (Bud) Fischer for any email with an attachment not limited to any specific word or phrase using the same date parameters you provided. This search produced an additional **72 pages**. You will receive the emails from the subsequent search in the same manner identified in the preceding paragraph.

Finally, please find enclosed certain additional hard files that were found in your office. These appear to be either personal documents or arguably relate to you, such that the University is producing them pursuant to your repeated demands that your personal items be returned. With this, the University believes it has returned every item in your former office that could arguably be deemed personal.

For the past year, you have flooded the Office of General Counsel with open records requests as well as other demands through your former counsel, Kathleen Schoen, and current counsel, Matt Baker. The University has worked in good faith to meet each of your demands, but the volume and breadth of your requests make it clear that the intent behind the requests is to disrupt the essential functions of the University. Given your former positions, the document you have sought through repetitive requests must be reviewed carefully to determine whether they contain sensitive information protected by the attorney-client privilege, which adds both time and expense to responding to your otherwise broad requests.

Perhaps just as significantly, the requests evidence your intent to use the records to gain a perceived advantage in litigation you intend to file against the University. All of this demonstrates that your requests have become unreasonably burdensome and intended to disrupt the functions of the University, as those terms are used in KRS 61.872(6).

The University’s obligations under the Open Records Act related to your numerous and duplicative Open Records Request have now been met. Since December 2020, the University has produced in excess of 33,945 pages and nearly 4.7 gigabytes of data to you. While the University will continue to meet its obligations under the Open Records Act and respond to good-faith requests, the University cannot continue to tolerate requests sent with the apparent intention of disruption.

Sincerely,



Andrea P. Anderson