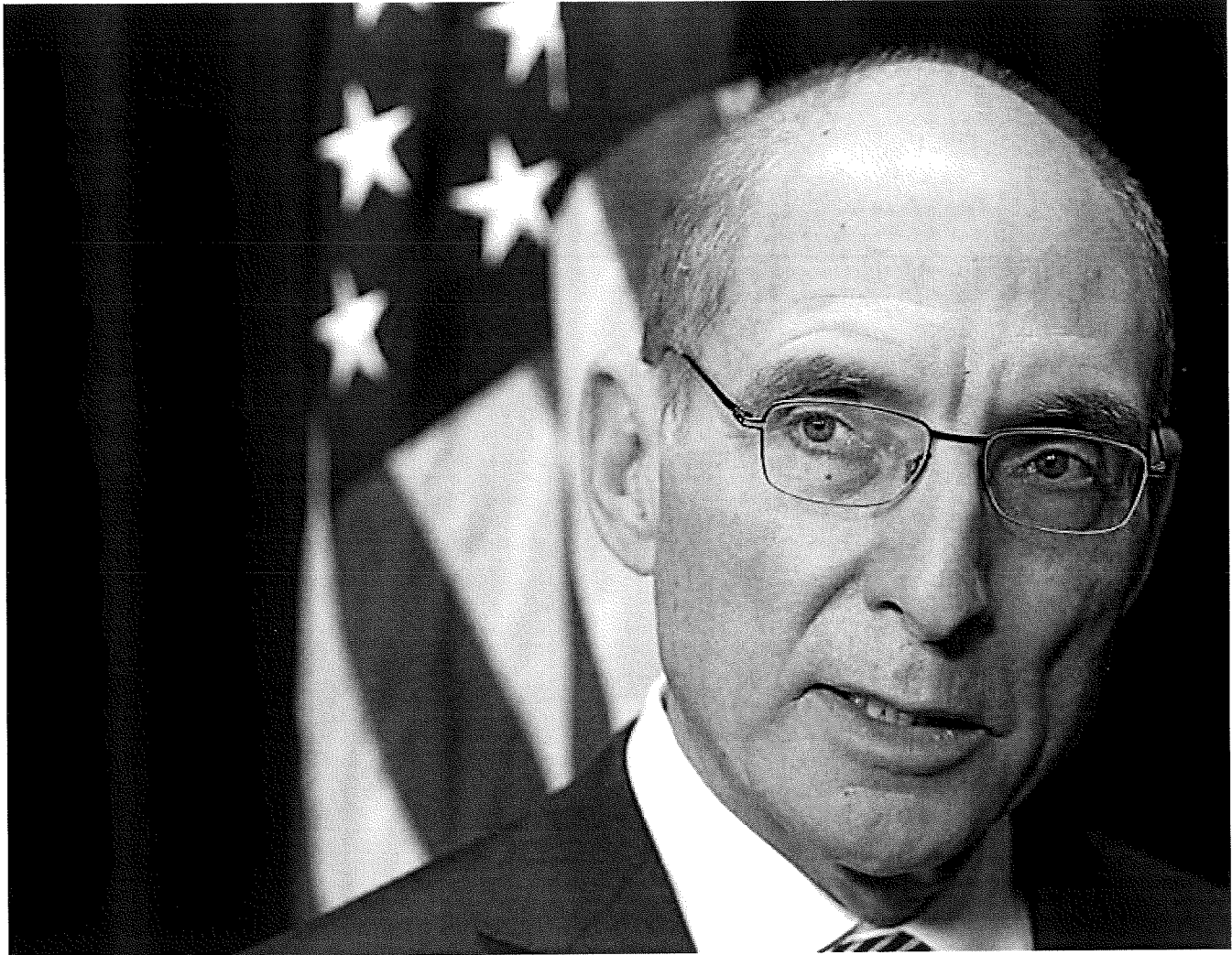


EDUCATION AUGUST 8, 2016 12:02 PM

UK suing two newspapers to appeal open records and open meetings violations



BY LINDA BLACKFORD
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University of Kentucky President Eli Capilouto announced Monday that UK will appeal two recent opinions by the Kentucky Attorney General's Office that found UK violated the state's Open Records Act and the Open Meetings Act.

Capilouto made the announcement in an unusual campus-wide email.

"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," Capilouto said.

In the first case, Attorney General Andy Beshear's office found that UK had violated the open records law because it turned down a request from the Kentucky Kernel for documents related to a sexual harassment case. UK also refused to let the attorney general examine the records to see if they could legally be withheld.

Reporter and UK student Will Wright had requested documents regarding a UK professor accused of sexual harassment by a student. The case was investigated by UK's Office of Institutional Equity and Equal Opportunity, and ended with a resignation agreement in which the professor resigned. Wright requested all the records detailing the investigation, which UK denied, saying some of the records were preliminary, some would violate personal privacy and others were protected by attorney-client privilege.

Wright appealed the denial to the attorney general's office.

"It is the attorney general's duty to conduct a meaningful review and issue an informed and reasoned decision," the opinion says. "Accordingly, we find that the University of Kentucky failed to meet its burden of proof in denying the Kentucky Kernel's response and must make immediate provision for Mr. Wright's inspection and copying of the disputed records."

Earlier Monday, before Capilouto vowed to fight the rulings in court, Wright said he hoped the university would release the records in question.

"It is the university's duty to be transparent, especially in situations that concern public safety and public money," Wright said. "I hope UK will release the records rather than take this to circuit court, but I plan to follow through in any case."

In the past, the Kentucky Kernel has relied on the legal defense fund of the

Kentucky Press Association to fight open records lawsuits.

Under state law, opinions issued by the attorney general on open-records and open-meetings issues carry the weight of law unless appealed in circuit court.

UK will also appeal an attorney general's opinion that found UK violated the Open Meetings Act when it conducted business but did not keep minutes at a Board of Trustees dinner. The Lexington Herald-Leader asked for the opinion after it was denied minutes from the meeting.

UK has lost at least five recent decisions on open records and open meetings laws regarding UK HealthCare and the Kentucky Medical Services Foundation, at least two of which it has already appealed in Fayette Circuit Court.

In his email, Capilouto said UK received about 800 open records requests last year and 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,” Capilouto said. “It is not.”

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