



COMMONWEALTH OF KENTUCKY  
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**23-OMD-065**

March 27, 2023

In re: Jerrol Summerville/Graves County Board of Education

**Summary:** The Graves County Board of Education (“the Board”) violated the Open Meetings Act (“the Act”) when it conducted a special meeting at a location that was not “convenient to the public.” KRS 61.820(1).

***Open Meetings Decision***

Jerrol Summerville (“the Appellant”) submitted a complaint to the Board chair alleging the Board violated the Act when it conducted a special meeting on February 24, 2023, in Louisville, Kentucky. Specifically, he stated “it was inconvenient for public attendance by Graves County residents” because the meeting was conducted “over 200 miles from Graves County.” To remedy his complaint, the Appellant asked the Board to “email” him the “detail[s] of the discussions regarding public business that occurred” and he asked the Board to publicly read the email at its next regular meeting.

The Board responded to the complaint and denied it had violated the Act.<sup>1</sup> Although the Board admitted it conducted a special meeting at a “retreat,” it claimed no violation occurred because it provided notice of the special meeting in compliance with KRS 61.823 and the meeting was open for public attendance.<sup>2</sup> The Board further stated the meeting minutes had not yet been approved, but would be approved at the Board’s next meeting. The minutes would then be available for the Appellant’s

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<sup>1</sup> Neither the Appellant’s complaint nor the Board’s response is dated. The Appellant has not challenged the timeliness of the Board’s response.

<sup>2</sup> On appeal, the Board clarifies its members attended the annual Kentucky School Boards Association conference in Louisville, Kentucky. The special meeting was conducted during an intermission in the conference.

inspection.<sup>3</sup> The Board further stated it “is neither customary, nor required,” that it read aloud the minutes at its next meeting, but offered the Appellant the opportunity to read them aloud as part of the public comment period at its next meeting. *See* KRS 160.270(2) (requiring each regular meeting of a board of education to include a public comment period of at least fifteen minutes). This appeal followed.

To enforce the Act, a person must first submit a complaint to the presiding officer of the public agency alleged to have violated the Act. KRS 61.846(1). The complaint must describe the alleged violations and propose a remedy. *Id.* Here, the Board claims the Appellant failed to properly perfect his appeal because the Appellant’s proposed remedy would not “address a perceived deficiency regarding the meeting location.” This Office, however, does not examine the adequacy of complainants’ proposed remedies. *See, e.g.,* 16-OMD-183.<sup>4</sup> KRS 61.846(1) simply requires the complainant to propose a remedy, and the agency must decide within three business days whether it will comply with the remedy. The Appellant complied with KRS 61.846(1) by proposing the Board read aloud its meeting minutes at its next meeting.

Regarding the merits of his complaint, the Act requires every meeting of a public agency to “be held at specified times and places which are convenient to the public.” KRS 61.820(1). The Act does not require public agencies “to conduct business only in the *most* convenient locations at the *most* convenient times. The intent of the [the Act] is to ensure that government business is not conducted in secret, that the public is adequately notified of the time and nature of government proceedings, and that interested citizens be afforded the opportunity to participate in such proceedings.” *Knox Cnty. v. Hammons*, 129 S.W.3d 839, 845 (Ky. 2004) (emphasis in original). Although an agency with statewide jurisdiction may be conducting business that interests citizens anywhere in the Commonwealth, the Office has held that meetings conducted by local agencies at places outside of their jurisdictional borders are inconvenient to the public of those local jurisdictions. *See, e.g.,* 02-OMD-078. Accordingly, the Board violated the Act on February 24, 2023, when it conducted a special meeting at a location outside of its jurisdictional borders, which was not “convenient to the public” of Graves County.<sup>5</sup>

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<sup>3</sup> From the record on appeal, it appears a copy of the minutes was attached to the Board’s response. It is not clear whether the Board provided the minutes contemporaneously with its response, or if the Appellant has simply attached them as part of his appeal.

<sup>4</sup> Rather, under KRS 61.846(3), if an agency agrees to remedy the violation and the complainant believes the *agency’s remedy* is inadequate, the complainant may proceed with his appeal as if the complaint had been denied.

<sup>5</sup> The Board’s mere presence at a conference was not a violation of the Act. Nothing in this decision should dissuade officials of local government agencies from attending conferences or educational opportunities outside their agencies’ jurisdictional borders. *See* KRS 61.810(2) (“Nothing in [KRS 61.810(2)] shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues”). As stated by the Supreme

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.846(4)(a). The Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

**Daniel Cameron**  
Attorney General

s/ Marc Manley  
Marc Manley  
Assistant Attorney General

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Distributed to:

Jerrold Summerville  
Jesse E. Wright

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Court of Kentucky, “The mere fact that a quorum of members of a public agency are in the same place at the same time, without more, is not sufficient to sustain a claim of a violation of the Act.” *Yeoman v. Commonwealth, Health Pol’y Bd.*, 983 S.W.2d 459, 474 (Ky. 1998). Rather, the Act prohibits a quorum of a public agency’s members from taking action or discussing public business unless the meeting is open to the public. *See id.*; *see also* KRS 61.810(1). While it is true the Board complied with the notice requirements of KRS 61.823 before conducting its special meeting, it violated KRS 61.820(1) because the meeting was not conducted in a place “convenient to the public.”