



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-OMD-255

December 2, 2024

In re: Matthew Vied/Fayette County Board of Education

**Summary:** The Office of the Attorney General (“the Office”) lacks jurisdiction to determine whether the Fayette County Board of Education (“the Board”) violated a statute that is not part of the Open Meetings Act (“the Act”).

### *Open Meetings Decision*

Matthew Vied (“the Appellant”) submitted a complaint to the Chair of the Board alleging it violated the Act by failing to comply with KRS 160.270. The Appellant also alleged the Board violated the Act by voting to approve a tax levy at its August 8, 2024, “regular (planning) meeting.”<sup>1</sup> As a remedy, the Appellant proposed that the Board acknowledge that it violated the Act by failing to comply with KRS 160.270 and by voting on the tax levy at its August 8 meeting. In response, the Board stated that the statute referenced by the Appellant is not part of the Act and that it was permitted to vote on the tax levy at a regular meeting. This appeal followed.

The Appellant identifies two issues on appeal: alleged violations of KRS 160.270 and KRS 160.470. The scope of the Office’s review of an appeal brought pursuant to the Act is set out in KRS 61.846(2). The Office shall review a complaint and denial submitted to the Office and issue a written decision within 10 business days of receipt of the required materials. *Id.* A decision issued by the Office shall “state[] whether the agency violated the provision of KRS 61.805 to 61.850.” *Id.* Adhering to this statutory limitation, the Office has historically declined to determine whether an agency violated statutory provisions outside of the Act. *See, e.g.*, 20-OMD-126 n.1 (finding the “Office is only authorized to determine whether the [Agency] complied with the Act”); 02-OMD-22 (declining to determine whether a university’s board of regents complied with its own bylaws); 95-OMD-99 (finding this Office

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<sup>1</sup> The Appellant does not raise this claim in his appeal to the Office.

“cannot decide whether other statutes and various local procedures and regulations have been violated”).

KRS 160.270 requires local boards of education to allow at least 15 minutes of public comment at each regular meeting. Here, the Appellant alleges the Board violated KRS 160.270(2) by not allowing a public comment period at its August 8 meeting. But KRS 160.270 is not a “provision of KRS 61.805 to 61.850,” *i.e.*, it is not a part of the Act.<sup>2</sup> See 24-OMD-026 n.2. Accordingly, the Office cannot decide whether any provision of KRS 160.270 has been violated.<sup>3</sup>

A party aggrieved by this decision may appeal it by initiating an 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.

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

Matthew Vied  
Andria Jackson  
Demetrus Liggins  
Alex Garcia  
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<sup>2</sup> On appeal, the Appellant alleges the Board violated KRS 160.470. But the Office also lacks authority to decide whether the Board violated that statute because it also is not a part of the Act. Moreover, the Appellant raises this issue for the first time on appeal. Therefore, the Office also lacks jurisdiction to consider this issue because the Appellant did not comply with KRS 61.846(1) (requiring an appellant to submit a written complaint describing the alleged violation before seeking enforcement under KRS 61.846(2)).

<sup>3</sup> The Appellant also requests that the Office render an advisory opinion regarding the alleged statutory violations if those statutes do not fall within the scope of the Act. As previously explained, the Office may only issue a decision stating “whether the agency violated the provision of KRS 61.805 to 61.850.” KRS 61.846(2). The Office declines the Appellant’s request that it exceed its statutory authority by rendering an advisory opinion.