



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

25-OMD-251

September 5, 2025

In re: Gay Adelmann/Education Professional Standards Board

Summary: The Office of the Attorney General (“the Office”) lacks jurisdiction to consider a complaint alleging that the Education Professional Standards Board (“the Board”) violated the Open Meetings Act (“the Act”) because the complaint was not first submitted to the presiding officer of the public agency accused of violating the Act and did not propose remedies for the alleged violation.

Open Meetings Decision

On June 24, 2025, Gay Adelmann (“Appellant”) submitted a complaint to a hearing officer conducting an administrative hearing on behalf of the Board, alleging that the Board had violated the Act by requiring the Appellant to sign in to enter the building in which the meeting was held, in violation of KRS 61.840. Having received no written response to her complaint, the Appellant initiated this appeal.

As an initial matter, the Office must be assured of its jurisdiction before it may render a decision under KRS 61.846(2). A complainant’s request for the Attorney General to review an agency’s denial of a complaint submitted under the Act is a statutory proceeding created by the General Assembly as an act of legislative grace. As such, a complainant must strictly comply with KRS 61.846 before invoking the Attorney General’s jurisdiction to review the complaint. *See, e.g.*, 25-OMD-004; 24-OMD-200; 24-OMD-133; 22-OMD-177.

To invoke the Attorney General’s jurisdiction to review a complaint under KRS 61.846(2), a complainant “shall begin enforcement” under KRS 61.846(1). That provision requires the complainant to “submit a written complaint to the presiding officer of the public agency suspected of” violating the Act. *Id.* Accordingly, to begin enforcement, the complaint may not be submitted to just any person associated with

the public agency; rather, the complaint must be sent to the agency's "presiding officer." In 22-OMD-177, the Office dismissed a complaint alleging a Jefferson County public school's Site-Based Decision Making Council had violated the Act because the complainant had failed to submit his complaint to the council's presiding officer. Rather, he submitted his complaint to the Superintendent of the Jefferson County Public Schools and the school district's general counsel.

Here, the Appellant alleges a violation of the Act by the Board but has submitted her complaint to a hearing officer retained by the Board under KRS 161.120(6)(d)4. (providing that a Board hearing "shall be conducted before a hearing officer secured by the Board pursuant to KRS 13B.040").¹ The hearing officer is not the presiding officer of the Board. Thus, because the Appellant's complaint was submitted to a hearing officer, not the Board's presiding officer, she did not comply with KRS 61.846(1).

Moreover, KRS 61.846(1) requires that a complainant "state what the public agency should do to remedy the alleged violation." As a corollary to that requirement, KRS 61.846(1) requires the public agency to decide "whether to remedy the alleged violation pursuant to the complaint" and has specific requirements for an agency's response that "den[ies], in whole or in part, the *complaint's requirements for remedying the alleged violation*" (emphasis added). In 13-OMD-209, the Office declined jurisdiction over an appeal because the complaint had not proposed a remedy for the alleged violation of the Act. Here, because the Appellant did not propose remedies, the Board could not have decided whether to grant or deny those remedies as contemplated by KRS 61.846(1). Thus, because the Appellant did not propose remedies for the alleged violation of the Act, she did not comply with KRS 61.846(1).

Accordingly, because the Appellant did not comply with KRS 61.846(1) by failing to submit her complaint to the presiding officer of the Board, and because she did not include proposed remedies for the alleged violation of the Act, the Office lacks jurisdiction under KRS 61.846(2), and therefore, dismisses this appeal.²

¹ The hearing officer retained by the Board for the hearing at issue is employed by the Office of Administrative Hearings within the Department of Law.

² The Office notes that the Kentucky Court of Appeals, in an unpublished decision, has held that administrative hearings of public agencies, like the one identified by the Appellant, are not public meetings subject to the Act. *See Jenkins v. Ky. Ret. Sys.*, No. 2018-CA-000395-MR, 2019 WL 4565240, at *6 (Ky. App. Sept. 20, 2019) (finding that the agency's decision to close a hearing to the public did not violate the Act because the Act "applies only to 'meetings of a quorum of the members of any public agency'" and "the administrative hearing did not involve a quorum of the members of" the agency).

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:

Gay Adelmann

Todd G. Allen, General Counsel, Department of Education

Tina Drury, Office of Legal Services, Kentucky Department of Education

Nicholas J. Cacopardo, Staff Attorney I, Office of Legal Services, Kentucky
Department of Education

James Howard, Hearing Officer