



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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26-OMD-320

July 15, 2026

In re: Demetrus Liggins/Fayette County School Board

Summary: The Fayette County School Board (“the Board”) violated the Open Meetings Act (“the Act”) when it entered closed session without first providing sufficient explanation in open session. However, KRS 61.810(1)(f) authorized its discussions in closed session.

Open Meetings Decision

On June 19, 2026, Demetrus Liggins (“the Appellant”),¹ through counsel, submitted a complaint to the Board chairman alleging that the Board violated the Act at its June 10, 2026, special meeting. The Appellant alleged that the Board violated KRS 61.815(1) when it did not provide sufficient notice of the reason for its closed session and that the closed session was not authorized by KRS 61.810(1)(f). Finally, the Appellant alleges that the Board violated the Act by coming to a consensus decision during its closed session. In a timely response, the Board denied violating the Act as alleged by the Appellant. This appeal followed.

When a quorum of the members of a public agency discusses, or takes action on, public business over which it has jurisdiction, a “meeting” occurs and it shall be open to the public. KRS 61.810; *see also Yeoman v. Commonwealth, Health Policy Bd.*, 983 S.W.2d 459, 475 (Ky. 1998). Under KRS 61.810(1), a public agency may discuss certain enumerated topics in closed session without the public present. Prior to entering closed session to discuss these topics, the public agency must give notice while still in open session “of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of KRS 61.810 authorizing the closed session.” KRS 61.815(1)(a).

Under KRS 61.810(1)(f), a public agency may enter closed session to hold discussions “which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student.” A public agency must provide proper

¹ The Appellant is the superintendent of the Fayette County Public Schools.

notice when it enters closed session to discuss employees under KRS 61.810(1)(f). A public agency may not rely on this exception to discuss “general personnel matters in secret.” *Id.* Because the statute expressly forbids the discussion of “general personnel matters in secret,” this Office has found that a public agency must state more than “personnel matters” as the basis for relying on KRS 61.810(1)(f) to enter closed session. *See, e.g.,* 97-OMD-110 (finding that, prior to entering closed session under KRS 61.810(1)(f), the agency must state, at a minimum, whether the discussions are likely to lead to appointment, likely to lead to discipline, or likely to lead to dismissal of an employee). More recently, the Office found that a public agency violated KRS 61.815(1) when it “only stated that it was discussing ‘a personnel matter’” because the agency “was required to affirmatively state in open session whether the discussions would be about appointing an employee, disciplining an employee, or dismissing an employee.” 21-OMD-091.

The Appellant alleges that the Board’s closed session was improper because its stated reason was to discuss the Appellant’s “resignation notice.”² Citing *Carter v. Smith*, 366 S.W.3d 414 (Ky. 2012), the Appellant argues that discussion of his “resignation notice” is not a topic authorized by KRS 61.810(1)(f). In *Carter*, the Supreme Court held that public agencies may not rely on KRS 61.810(1)(f) to discuss an employee’s voluntary resignation and subsequent reemployment as an independent contractor. *Id.* at 421. That is because a voluntary resignation is not a “dismissal” as contemplated by the statute. *Id.* And although the individual would have been appointed to perform work on behalf the public agency, the individual was being appointed as an independent contractor—not as an employee. For that reason, the exception did not apply. *Id.* at 422.

For its part, the Board states that although the “resignation notice” was the stated topic for the closed session, it further discussed the circumstances accompanying that notice, including allegations made against the Appellant that the Board states “appeared to have prompted his resignation email.” The Board further explains that it discussed “whether those allegations required investigation (*i.e.*, discussions that might lead to the discipline or dismissal of an employee), as well as the appointment of an acting superintendent pending resolution of those allegations.”

The Appellant is correct insofar that he states that KRS 61.810(1)(f) does not allow a public agency to enter closed session merely to accept an employee’s voluntary resignation. But that is not what occurred here. Rather, as explained by the Board, its closed session discussions were those that “might lead to the appointment, discipline, or dismissal of an individual employee” and were not merely discussions about accepting a voluntary resignation. Therefore, KRS 61.810(1)(f) authorized the

² The “resignation notice” is an email the Appellant sent to the members of the Board on June 9, 2026. The parties disagree regarding whether that email was intended by the Appellant to give notice of his resignation as superintendent. The Office takes no position on that factual issue.

Board to convene a closed session to hold a discussion that might lead to the discipline or dismissal of the Appellant, and so, its closed session did not violate the Act.

However, because KRS 61.810(1)(f) forbids the discussion of general personnel matters in closed session,” a public agency “is required to affirmatively state in open session whether the discussions would be about appointing an employee, disciplining an employee, or dismissing an employee.” 21-OMD-091 (citing 97-OMD-110). In 21-OMD-091, the public agency failed to provide sufficient notice of the reason for its closed session when it stated only that it was discussing “a personnel matter.” *Id.* Here, the Board stated only that it would be entering closed session “to discuss [a] resignation notice” before citing KRS 61.810(1)(f). That statement was insufficient to give notice that the discussions “might lead to the appointment, discipline, or dismissal of an individual employee.” Because the Board did not “affirmatively state in open session whether the discussions would be about appointing an employee, disciplining an employee, or dismissing an employee,” its notice violated the Act.

The Appellant also alleges that the Board violated the Act by reaching a consensus decision during its closed session. But such action is not a violation of the Act. Rather, “reaching a consensus in closed session does not constitute ‘action taken’ in violation of the [Act], provided the agency subsequently takes final action in open session with each member’s vote recorded in the minutes.” 19-OMD-038. The Board took official action in open session following its closed session; therefore, no violation of the Act occurred.

Finally, the Appellant asks the Office to find that the Board’s actions subsequent to its June 10 closed session are voidable under the Act. Under KRS 61.846(2), however, the Attorney General’s jurisdiction is limited to issuing “a written decision which states whether the agency violated” the Act. *See, e.g.*, 07-OMD-196; 98-OMD-74. Accordingly, the Office does not have jurisdiction to grant any specific remedy for a violation. *See, e.g.*, 21-OMD-074 n.1. Rather, an action taken by a public agency “without substantial compliance with” the Act is only “voidable by a court of competent jurisdiction.” KRS 61.848(5).

In summary, although the Board violated the Act when it failed to provide sufficiently detailed notice of its reason for entering closed session on June 10, that closed session was justified by KRS 61.810(1)(f). The Board did not violate the Act by reaching a consensus during its closed session, and the Office lacks the jurisdiction to find that any Board action is “voidable.”

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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
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Distributed to:

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