



COMMONWEALTH OF KENTUCKY  
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**20-OMD-011**

January 28, 2020

In re: Lynette Warner/Graves County School Board

*Summary:* The Graves County School Board (“the Board”) violated the Open Meetings Act (“the Act”) by failing to issue a written response to a complaint made pursuant to KRS 61.846(1) within three working days following receipt of the complaint. However, the record on appeal does not substantiate the claimed violation of KRS 61.820.

*Open Meetings Decision*

The question presented in this appeal is whether the Board violated the Act in failing to follow its regular meeting schedule for three consecutive months. By letter directed to Board Chairman Ronnie Holmes on November 29, 2019, Lynette Warner (“Appellant”) submitted a written complaint per KRS 61.846(1), noting the Board met on Tuesday, November 19, 2019, which “marked the third time in three months” the Board “had not adhered to the regular meeting time of third Thursday of each month.” To remedy the alleged violation of the Act, Appellant proposed the Board should either follow its regular meeting schedule or “announce to the public your newly specified time for regular board meetings.”

On appeal, the Board acknowledged its failure to issue a timely written response to Appellant’s complaint per KRS 61.846(1), but argued that its failure “is excused because the [complaint] is ambiguous, contradictory and fails to clearly state a complaint that any part of the [Act] has been violated.” In

addressing the claim that it changed three of its regularly scheduled meetings and the Appellant's proposed remedies, the Board argued it complied with all statutory requirements regarding the conduct of monthly Board meetings, that it complied with all notice requirements for special meetings, and that one of the alleged special meetings was actually a regularly scheduled meeting. The Board included a copy of meeting minutes showing the 2019 regular meeting schedule that had been adopted.

Relying upon the Appellant's "own evidence," the Board stated that meetings were held on September 17, October 17, October 29, November 14, and November 19, 2019. The Board explained that its November 19, 2019, meeting was a regular meeting but was erroneously conducted like a special meeting. In other words, the Board "followed all necessary (and more restrictive) procedures for calling and conducting a special meeting." Quoting relevant sections of KRS 61.823(3) and (4), the Board maintained that it fully complied with all of the statutory notice requirements prior to holding the special meetings in dispute. The Board included the minutes from August 15, 2019, August 27, 2019, and October 17, 2019, to verify this assertion. Further, in each instance the Board provided the statutorily required notice to members of the media more than twenty-four (24) hours in advance using statutorily authorized means of transmission. The Board also included a copy of media notifications dated September 16, 2019, at 4:15 p.m., October 28, 2019, at 3:13 p.m., and November 18, 2019, at 4:04 p.m. In addition, the Board's practice is to post notices on the front door of its office "and the Board did cause said postings to be made. No suggestion to the contrary is asserted."

Finally, the Board reiterated that its November 19, 2019, meeting was a regular meeting, which did not deviate from the scheduled meeting date; rather, the Board complied with notice requirements for special meetings prior to holding the meeting, thereby exceeding the requirements for a regular meeting. In summary, the Board explained that of the meetings about which Appellant complained—September 12, October 24, and November 19—were not originally scheduled as "third Thursday meetings" per the 2019 meeting schedule; the only "third Thursday meeting" that deviated from the adopted 2019 regular meeting schedule was the September 19 meeting that was canceled.

As a threshold matter, this Office notes that in failing to issue a written response of any kind to her complaint within three working days, the Board violated KRS 61.846(1). Under KRS 61.846(1), a “public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision.”

The record on appeal, however, does not substantiate an alleged violation of KRS 61.820. The unrefuted evidence presented confirms the Board established a schedule of regular meetings in accordance with KRS 61.820(2). With limited exceptions (including the October and November regular meetings in dispute), the Board scheduled its regular meetings for the second Thursday of each month at 5:00 p.m. and the third Thursday of each month at 6:00 p.m. The Appellant did not allege the Board failed to comply with notice requirements for special meetings prior to holding any rescheduled meeting pursuant to KRS 61.823. The minutes of meetings attached to the Board’s response to this appeal substantiate the Board’s position that its September 12, 2019, meeting was canceled. The minutes also demonstrate the Board’s September 19, 2019, and October 24, 2019, regular meetings were rescheduled and the Board complied with KRS 61.823 prior to each rescheduled meeting. Finally, the November 19, 2019, meeting was a regular meeting not subject to the provisions of KRS 61.823, yet the Board still provided notice that fulfilled the requirements for special meetings found therein. Accordingly, the Board did not violate KRS 61.820.

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.

Daniel Cameron  
Attorney General

/s/ Michelle D. Harrison

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Distributed to:

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