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25-OMD-020

January 28, 2025

In re: Tanyqua Oliver/Fayette County Board of Education

Summary: The Fayette County Board of Education (“the Board”) did not violate the Open Meetings Act (“the Act”) when it held a private reception prior to its official meeting. The Board also did not violate the Act when it requested that the Appellant modify her behavior but did not require that she leave the meeting. The Office is unable to resolve the factual disputes between the parties regarding whether the Appellant received the Board’s response to her complaint.

Open Meetings Decision

Tanyqua Oliver (“Appellant”) submitted a complaint to Fayette County Public School (“FCPS”) personnel claiming that, at its December 19, 2024, meeting, it “violated KRS 61.840 in regard to conditions of attendance.” Specifically, the Appellant alleges she was “followed and harassed by FCPS police officers.” Having received no response from the Board, the Appellant initiated this appeal.¹

Upon receiving a complaint alleging a violation of the Act, a “public agency shall determine within three (3) [business] days . . . after the receipt of the complaint

¹ Although the Appellant’s complaint names FCPS as the alleged violator of the Act, it complains of actions taken at the Board’s December 19, 2024, meeting. Accordingly, the Board is the agency which is the subject of this appeal. However, the Appellant claims she submitted her complaint by hand to FCPS police officers at the December 19 meeting and by e-mail to the Superintendent of FCPS. Under KRS 61.846(1), a complainant must “submit a written complaint to the presiding officer of the public agency suspected of” violating the Act. Whether the Appellant complied with KRS 61.846(1) matters because, to invoke the Attorney General’s review under KRS 61.846(2), a complainant “shall begin enforcement” under KRS 61.846(1). Here, it does not appear that the Appellant submitted her complaint to the presiding officer of the Board. However, the Board has not asserted that the Appellant failed to submit her complaint to the Board’s presiding officer. Moreover, the Board claims that its Chair did receive and timely respond to the Appellant’s complaint. Thus, the Office is satisfied that it has jurisdiction to review the Appellant’s complaint regarding the Board.

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.” KRS 61.846(1). Here, the Appellant submitted her complaint to the Board on December 19 and 20 but, as of January 13, she had yet to receive a response to that complaint. In response, the District asserts it responded to her complaint on December 26, 2024.² In appeals under the Act, the Office cannot resolve factual disputes between the parties. *See, e.g.*, 23-OMD-339; 22-OMD-236 (“this Office cannot decide factual disputes in this forum”); 19-OMD-187. Thus, the Office cannot resolve this factual dispute between the parties regarding whether the Appellant received the Board’s response to her complaint.

Regarding the merits of the Appellant’s allegations against the Board, the Appellant alleges the Board violated the Act when it imposed “conditions of attendance” by not allowing her to sit in public areas prior to the meeting and when FCPS police officers “physically assaulted [her] by bumping” her. The purpose of the Act is to ensure the formation of public policy “shall not be conducted in secret.” KRS 61.800. It is for this reason that “[n]o condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency [and] [n]o person may be required to identify himself in order to attend any such meeting.” KRS 61.840.

To start, the Board explains that, prior to its December 19 meeting, it held a reception for two former Board members whose terms had expired. The Board states that the Appellant entered that room during the reception, she was informed where the meeting would take place, and she “voluntarily left the reception.” Under KRS 61.810(1), “[a]ll meetings of a quorum of the members of any public agency *at which any public business is discussed or at which any action is taken by the agency*, shall be public meetings, open to the public at all times” (emphasis added). However, “[t]he 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 violation of the Act.” *Yeoman v. Commonwealth, Health Policy Bd.*, 983 S.W.2d 459, 474 (Ky. 1998). The Appellant does not allege that the Board discussed public business or took any action at its pre-meeting reception. Accordingly, the Board did not violate the Act when it held a reception that was not open to the Appellant.

Next, regarding the Appellant’s allegations regarding the FCPS police officers, the Board admits that “officers observed Ms. Oliver’s behavior during the Board’s meeting,” “stood or sat near [a Board member] to support her in response to Ms.

² The Board provided the Office with a copy of its December 26 response.

Oliver’s behavior,” and asked her “to stop after she extended her arm across a table and into” a Board member’s face. But the Board also asserts that the Appellant was not asked to leave the meeting, was allowed to “continue recording” and to “roam freely around the room,” and was allowed to address the Board during the public comment period. As explained above, the Office is not able to resolve factual disputes regarding allegations of being “bumped” during the meeting. *See, e.g.*, 22-OMD-236.³ However, the Appellant does not claim she was made to leave the Board’s December 19 meeting. The Office has previously declined to find that a public agency imposed conditions on attendance in violation of the Act when it asked an attendee to identify herself but did not make the attendee leave when she declined to do so. *See, e.g.*, 24-OMD-215. Here, too, the Board did not violate the Act when it asked the Appellant to modify her behavior but did not require her to leave the meeting.

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Tanyqua Oliver
Andria Jackson
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³ Moreover, the Office is limited to addressing disputes regarding violations of the Act. *See* KRS 61.846. The Office cannot resolve the Appellant’s claim of having been “physically assaulted.”