

**RESOLUTION OF THE JEFFERSON COUNTY BOARD OF EDUCATION
CONCERNING A REQUEST BY THE COMMISSIONER OF EDUCATION**

WHEREAS, the Commissioner of Education is the chief executive of the Kentucky Department of Education (KDE) and is responsible for administering KDE, including implementing state laws and regulations promulgated by the Kentucky Board of Education (KBE) and the Education Professional Standards Board (EPSB);

WHEREAS, KRS 165.210 states that the Commissioner of Education, "shall have access to the papers, books and records of all teachers, trustees, superintendents, or other public-school officials";

WHEREAS, the Jefferson County Board of Education (JCBE) has approved policies regarding employee attendance and sick leave;

WHEREAS, the Superintendent of Jefferson County Public Schools (JCPS), as the executive agent and officer of the JCBE, is obligated to ensure that laws relating to schools, bylaws, rules, and regulations of the KBE, and the policies of the JCBE are carried into effect;

WHEREAS, on March 14, 2019, the Commissioner of Education requested that the JCPS Superintendent provide the following documents and records:

1. *The names of all teachers that called in sick for February 28, March 5 through 7, and March 12 through 14, 2019, and the day(s) for which each teacher called in sick;*
2. *Any and all affidavits or certificates of a reputable physician stating that the employee was ill or caring for an ill family member on the day(s) the employee called in sick, as required by KRS 161.155 for the granting of any sick leave; and*
3. *Documentation of the district's policies, procedures, and/or protocols for collecting sick leave affidavits or certificates and verifying qualification for the granting of sick leave.*

WHEREAS, JCPS was closed on February 28, and March 6, 7, 12, 13, and 14 due to not having enough substitute teachers to safely cover a large number of possible teacher absences;

WHEREAS, the Kentucky General Assembly was in session on February 28, and March 6, 7, 12, 13, and 14 considering bills with significant consequences for public education;

WHEREAS, teachers and public employees from across the Commonwealth of Kentucky, including JCPS, traveled to Frankfort on the days in question to exercise their rights as citizens;

WHEREAS, the JCBE is highly concerned about interruptions to student learning and seeks to work collaboratively with teachers, the KDE, the KBE and state legislators to avoid such interruptions;

WHEREAS, the JCBE is supportive of employees' First Amendment rights and, indeed, encourages employees to participate in meetings of the JCBE and in the legislative process;

WHEREAS, the JCBE understands that JCPS teachers contribute well beyond their contracted daily hours by volunteering their own time on weekends, evenings, many holidays and many days during summer vacation to serve the students of Louisville and Jefferson County, Kentucky;

WHEREAS the JCBE, the KBE, the KDE, the Superintendent of JCPS, and the Commissioner of Education are working closely to improve the quality of education in Jefferson County and to fully implement the parties' August 28, 2018 settlement agreement and corresponding Corrective Action Plan (CAP);

WHEREAS, the Commissioner stated during a press conference on March 15, 2019 that he was not recommending repercussions, consequences or charges being filed against anyone, however, when asked, the Commissioner would not definitively state that no disciplinary action will result from the gathering of these names;

WHEREAS, the Commissioner's request and subsequent comments, though within the Commissioner's statutory authority, have raised significant concerns among teachers regarding retribution for exercising their First Amendment rights on days when school had been cancelled in advance; and

WHEREAS, the JCBE is concerned that the Commissioner's request for the names of teachers who asked to use a sick day on February 28, and March 6, 7, 12, 13, or 14 will have a negative effect on teacher morale, will discourage citizens from exercising their First Amendment rights, and could strain the relationship between JCPS teachers and the Superintendent, thereby limiting the ability of the Superintendent to meet the expectations of the CAP as well as endangering progress in student achievement accomplished by the Superintendent and JCBE;

NOW THEREFORE, be it resolved by the Jefferson County Board of Education that:

The Board assures Jefferson County teachers and employees that it is fully supportive of their First Amendment rights and will endeavor to work collaboratively with teachers, the KDE, and state legislators to make it possible for teachers to effectively exercise their rights without interruptions to student learning;

The JCBE is thankful for the dedication of JCPS teachers who routinely contribute more than the 187 day contracted yearly requirement to further the education of the students in Louisville and Jefferson County, Kentucky;

The Board requests that the Commissioner withdraw his request for, *"the names of all teachers that called in sick for February 28, March 5 through 7, and March 12 through 14, 2019, and the day(s) for which each teacher called in sick"* and in the event he does not withdraw his request, the Superintendent is required under KRS 160.370 to submit records that may be responsive to the Commissioner's request;

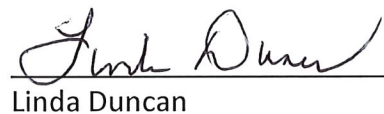
The JCBE believes that the educational interests of Jefferson County students are best served by allowing teachers to focus on their profession, including advocacy in their profession's best interests, without the fear of retribution; and

The JCBE requests that all parties work collaboratively to render unnecessary such school closures as occurred on the days in question by finding mutually agreeable solutions to this issue as well as other important issues affecting public education.

ENTERED by the Jefferson County Board of Education this 19th day of March, 2019.



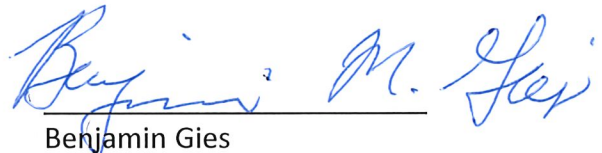
Diane Porter, Chair



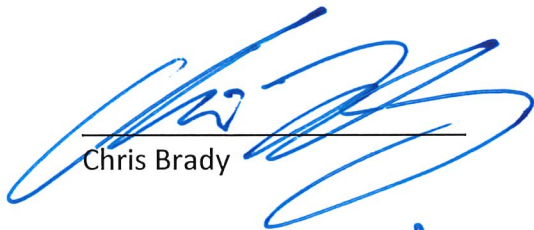
Linda Duncan



Chris Kolb, Vice Chair



Benjamin Gies



Chris Brady



Corrie Shull



James Craig