

**RESOLUTION OF THE MARION 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 Marion County Board of Education (MCBE) has approved policies regarding employee attendance and sick leave;

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

WHEREAS, on March 14, 2019, the Commissioner of Education requested that the MCPS 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, MCPS was closed on February 28, due to student and staff illness;

WHEREAS, the Kentucky General Assembly was in session on February 28 considering bills with significant consequences for public education;

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

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

WHEREAS, the MCBE understands that MCPS 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 Marion County, Kentucky;

WHEREAS, the Commissioner's request, though within the Commissioner's statutory authority, has 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 MCBE is concerned that the Commissioner's request for the names of teachers who asked to use a sick day on February 28 will have a negative effect on teacher morale, will discourage citizens from exercising their First Amendment rights, and could strain the relationship between MCPS teachers and the Superintendent, thereby limiting the ability of the Superintendent to meet the expectations of MCBE, as well as endangering progress in student achievement accomplished by the Superintendent and MCBE;

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

The Board assures Marion 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 MCBE is thankful for the dedication of MCPS teachers who routinely contribute more than the 187-day contracted yearly requirement to further the education of the students in Marion 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 MCBE believes that the educational interests of Marion 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 MCBE 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.

ADOPTED by the Marion County Board of Education this 21st day of March, 2019.

CARRIE TRUITT

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