

A Resolution of the _____ Board of Education

Regarding Meeting Protocols for Novel Coronavirus (COVID-19)

WHEREAS, on March 6, 2020, the Governor issued Executive Order 2020-215, declaring a state of emergency throughout Kentucky pursuant to his power under the Kentucky Constitution and KRS Chapter 39A regarding the threats to public health presented by the Novel Coronavirus (COVID-19) pandemic; and

WHEREAS, the Secretary of the Kentucky Finance and Administration Cabinet has more fully described the public health threats of COVID-19 in the “Memorandum Re: Meeting Protocol for Novel Coronavirus (COVID-19)” dated March 16, 2020 (hereinafter the: “Meeting Protocol”); and

WHEREAS, the Meeting Protocol requires “all Kentucky Boards and Commissions” to take proper health precautions to mitigate the spread of COVID-19 and accordingly, with respect to the public attendance at meetings of said bodies, states “[m]embers of the public will only be able to view video-conferenced meetings remotely;” and

WHEREAS, the same emergency public health considerations as described in the Meeting Protocol apply to Kentucky public school districts and their Boards of Education; and

WHEREAS, the Kentucky Cabinet for Health and Family Services and the Kentucky Department of Education have each advised that all Kentuckians practice “social distancing” during the state of emergency, including but not limited to keeping a distance of at least six (6) feet between individuals and the cancellation of large “community gatherings;” and

WHEREAS, the Kentucky Open Meetings Act at KRS 61.840 provides that “no 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

WHEREAS, due to the emergency conditions currently existing under the present state of emergency and the need to mitigate the spread of COVID-19 via person-to-person contact in large community gatherings of persons where social distancing is difficult, the conditions necessary at this time for the maintenance of order at meetings of district boards of education, which include the mitigation of the spread of disease during a public health pandemic, include limitations on meeting attendance by members of the public such as described in the Meeting Protocol; and

WHEREAS, in an Opinion issued on March 18, 2020, issued as OAG 20-05, the Kentucky Attorney General opined that at this time during the present state of emergency it is not “feasible” under KRS 61.840 to precisely identify and provide a primary physical location for a video teleconference under the Open Meetings Act at which the public may attend and view a meeting held via video teleconference, and that various other technological means by which the public may view a meeting should be provided instead until the conclusion of the state of emergency;

NOW, THEREFORE: Be it resolved by the _____ Board of Education:

On Motion of _____, seconded by _____, the Board hereby **RESOLVES AND ORDERS** as follows for the duration of the above declared state of emergency:

- 1 With regard to Board of Education meetings held on and after the adoption of this resolution and until the conclusion of the current state of emergency, the Board shall conduct its meetings in conformity with the procedures set forth in KRS 61.826 for video teleconferencing of meetings and in conformity with the Opinion of the Attorney General, issued as OAG 20-05, which interpreted those provisions and other provisions of the Open Meetings Act in light of the exceptional circumstances of the current state of emergency.
- 2 Board members shall use their best efforts to avoid attending any board meeting in person and shall instead attend via video teleconference to the extent practicable, and shall observe any binding governmental directive or order that may be issued in the future that may prohibit such in person attendance.
- 3 The Superintendent shall arrange for resources and instructions necessary to allow board meetings to be conducted via video teleconferencing pursuant to KRS 61.826 and board policy, and pursuant to the Opinion of the Attorney General, issued as OAG 20-05.
- 4 Due to the circumstances previously described in this Resolution, in the Governor's declaration of a state of emergency, in the Meeting Protocol, and in OAG 20-05, and based upon the authority to impose conditions to maintain order under KRS 61.840 in these extraordinary and emergency circumstances, and further based upon the interpretation of the Attorney General issued as OAG 20-05, the requirement in KRS 61.826 that the Board provide a "primary location ... where the public may attend" is determined not to be feasible under KRS 61.840. Alternative measures for the public and media/press to observe the meeting remotely will be implemented.
- 5 Notices that regular or special meetings of the board are to be held as video teleconferences shall be provided to members of the Board, and media/press agencies entitled to receive such notice as provided in KRS 61.823. Notice shall be provided to the public that precisely identifies the technological means by which the public may access a video teleconference. Provision of such access shall not otherwise interfere with the conduct of the meeting. Absent emergency circumstances qualifying under KRS 61.823(5), these notices shall be provided at least 24 hours before the video teleconference meeting.
- 6 Should there be an interruption in the public video or audio broadcast of the meeting, the meeting shall be suspended until the full functionality is restored. If there is such an interruption for an individual board member attending the meeting via video teleconference, the meeting may continue after reasonable efforts to restore connections so long as a quorum is still participating.
- 7 In the case of any board meetings involving individual hearing matters, including but not limited to student expulsion hearings, consideration shall be made on a case-by-case basis for the holding of in-person meetings as deemed necessary and advisable and alternative arrangements to mitigate the spread of COVID-19 via person-to-person contact may be implemented.

Adopted by the Board this _____ day of _____, 2020.

Attested by _____, Chair of the Board.