



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

May 20, 2026

Sent by email

Jeffrey S. Walther
Walther, Gay & Mack, PLC
P.O. Box 1598
163 East Main Street, Suite 200
Lexington, Kentucky 40588-1598
jwalther@wgmfirm.com

Eric G. Farris
Rudy J. Ellis, III
Dinsmore & Shohl LLP
101 South Fifth Street, Suite 2500
Louisville, Kentucky 40202
eric.farris@dinsmore.com
rudy.ellis@dinsmore.com

RE: Nancy-Lynne Walters
Eligibility to Serve on the Anchorage Independent Board of Education

Dear Counsel:

I appreciate your continued patience as my Office investigated and researched this matter. This letter provides you with our findings and decision regarding how we will proceed on the Board's complaint.

Factual background

Nancy-Lynne Walters is currently a member of the Board of Education of Anchorage, Kentucky (the "Board"). Ms. Walters missed about half of the Board's regular meetings in 2025, including as relevant here, the regular meetings held in September, October, and December 2025. (*See* Aff. of Hannah Barnes.)¹ Because of Ms. Walters's failure to attend three consecutive regular meetings, the Board approved a resolution by a 3-2 vote on January 7, 2026, to "submit a letter to Office of the Attorney General reporting the nonattendance of board member Nancy-Lynne

¹ Kentucky law requires that local boards of education "hold at least one (1) regular meeting each month." KRS 160.270(1). Notwithstanding this legal requirement, the Board did not hold a "regular" meeting in November 2025. Due to another member's scheduling conflict, the Board agreed to reschedule its regular November meeting to another date, thus converting the November meeting of the Board into a "special" meeting. *Cf. id.* Ms. Walters attended the special Board meeting in November 2025 and, reportedly, would have been able to attend the regular November Board meeting, had it been held as originally scheduled.

Walters at three (3) consecutive regular meetings and requesting the Attorney General review pursuant to KRS 160.270, KRS 415.050, and KRS 415.060.” By letter dated January 15, 2026, counsel for the Board transmitted a copy of the Board’s resolution to this Office for further action.²

Included with counsel’s January 15 letter was an affidavit of Board chair Hannah Barnes, which detailed Ms. Walters’s attendance at the Board’s regular meetings in 2025; as well as information Ms. Walters had provided to the other Board members before the Board’s January 7 meeting. This Office has considered those materials during its investigation.

In addition, Ms. Walters agreed to sit for an interview with the undersigned on March 3, 2026. This Office has considered Ms. Walters’s statements during that interview, though it should be mentioned that the content of her statements during the interview did not differ from the statements included in the emails and documents she previously provided to the other Board members, which the Office received with the Board’s complaint.

Finally, this Office requested additional information, including the answers to specific questions, from both counsel for the Board and counsel for Ms. Walters, and asked that the information be provided to the Office in writing and shared with the other side. Counsel for Ms. Walters provided such information to the Office under cover of a letter dated March 18, 2026. Counsel for the Board provided such information to the Office by letter dated April 2, 2026. Thank you for providing the requested information, as it was helpful to the Office in evaluating this case.

From our review of the available evidence, it appears Ms. Walters, or another member on her behalf, made several requests that her absences from the September, October, and December 2025 regular meetings be excused, or that those meetings be rescheduled to accommodate her work schedule.

- On September 5, 2025, Ms. Walters told the other Board members by text message that she would miss the regular meeting that month because of a business trip she was required to take to Chicago. She requested to participate at the meeting remotely, or that the meeting be rescheduled so she could attend in person. Board chair Hannah Barnes responded that she “[didn’t] want to give up our regular meeting allowances when we are doing something as important as adopting the working budget. Changing the date makes it a special meeting [with] less flexibility.” Ms. Walters reiterated

² This letter will refer to the Board’s January 7 resolution and counsel’s January 15 letter collectively as the “Board’s complaint.”

her request to participate in the meeting remotely. She received no response to that request. Then, on September 18, Ms. Walters again reiterated her request to attend the September meeting remotely. She apparently never received a response to that request, either. As a result, Ms. Walters missed the regular meeting on September 24, and her absence was never excused by the Board. The Board's minutes from its September 24, 2025, meeting do not indicate that the Board ever discussed Ms. Walters's requests to participate remotely or to reschedule the meeting, nor did the Board discuss at that time whether to excuse Ms. Walters's absence.

- On October 22, 2025, the date of the Board's regular meeting that month, Ms. Walters's mother had a health issue that landed her in the hospital. Ms. Walters informed the other Board members that she could not attend that meeting because she needed to stay with her mother in the hospital. The Board's minutes from its October 22, 2025, meeting do not indicate that the Board discussed whether to excuse Ms. Walters's absence.
- The Board did not hold its regular meeting on November 19, 2025. At the request of Board member Andrew O'Brien, because of a work conflict, the Board agreed—apparently unanimously—to reschedule the meeting to November 18, thereby converting the November meeting to a “special” meeting of the Board, even though the minutes reflect the agenda for that meeting was the same, or similar, to that of a regular business meeting. Ms. Walters was present at the Board's special meeting on November 18, 2025.
- On November 24, 2025, Ms. Walters asked to reschedule the Board's regular December meeting, citing a work conflict. Board chair Hannah Barnes responded to the request by stating that the Board “just can't be moving meetings,” even though the Board had agreed to reschedule its regular November meeting because of another Board member's work conflict. The Board held its regular monthly meeting on December 10, 2025, with Ms. Walters absent. The Board's minutes from its December 10, 2025, meeting do not indicate that the Board discussed whether to excuse Ms. Walters's absence.
- At the Board's regular meeting on January 7, 2026, with Ms. Walters present, Board member Andrew O'Brien moved to excuse Ms. Walters's absence from the Board's regular meeting of October 22, 2025. By a 2-3 vote, the motion failed. Instead, the Board voted 3-2 to refer Ms. Walters's case to this Office for review.

Legal analysis

As cited by the Board, KRS 160.270 generally requires members of local boards of education to attend its regular meetings. “Any board member failing to attend three (3) consecutive regular meetings, unless excused by the board for reason satisfactory to it, shall be removed from office pursuant to KRS 415.050 and 415.060.” KRS 160.270(1). In turn, “[a] person who continues to exercise an office after having committed an act, or omitted to do an act, the commission or omission of which, by law, creates a forfeiture of his office, may be proceeded against for usurpation thereof.” KRS 415.060.³ This Office must review the available evidence to determine whether there is “a basis in fact supporting the claims of unexcused excessive absences from regular board meetings.” OAG 78-78, 1978 WL 26903 (Jan. 30, 1978). Only if, “after careful and thorough consideration of the affidavits and any other reliable, trustworthy and relevant material by the Office of the Attorney General, it is determined that there exists reasonable cause to believe a local school board member has committed a disqualifying act or acts, the Office of the Attorney General will institute and prosecute to completion” an ouster action under KRS Chapter 415 against the board member. OAG 78-663, 1978 WL 26218 (Sept. 20, 1978).

Merely missing three consecutive meetings does not automatically require the removal of a member of the Board from office. First, the Board itself can excuse one or more of the absences “for reason satisfactory to it.” KRS 160.270(1). As recounted above, Ms. Walter and Mr. O’Brien made several requests to excuse Ms. Walters’s absences from the three regular meetings at issue. Each time, the Board either took no action on the request or voted against excusing the absence.

Though KRS 160.270(1) grants discretion to the Board to determine what reasons are “satisfactory to it” for excusing a member’s absence from a regular meeting, the Board’s discretion is not unbounded. As a government entity, the Board may never claim “[a]bsolute and arbitrary power over the lives, liberty and property of freemen . . . not even in the largest majority.” Ky. Const. § 2. In this context, the Board’s action is arbitrary “when it is done in an arbitrary or capricious way; without adequate determining principle; not founded in the nature of things.” *Baisden v. Floyd Cnty. Bd. of Educ.*, 110 S.W.2d 671, 673 (Ky. 1937). At a minimum, in deciding whether a member’s absence should be excused for reasons “satisfactory” to the Board, “the delinquent should be given an opportunity to explain or offer [her] reasons for [her] failure to attend the meetings.” *Bd. of Educ. of Wurtland Indep. Sch. Dist. v. Stevens*, 88 S.W.2d 3, 5 (Ky. 1935). And in any ouster proceeding, the trial

³ Because local board of education members are state officers, e.g., *Commonwealth ex rel. Buckman v. Mason*, 284 S.W.2d 825, 827 (Ky. 1955), it is the Attorney General who must institute any ouster proceedings against them. KRS 415.050.

court would inquire not only into the arbitrariness of the Board's decision, but also into whether the Board's action is "right and equitable under the circumstances" and was "directed by reason and in good conscience." *Baisden*, 110 S.W.2d at 673.

Here, it is the conclusion of this Office that the Board's action in failing to excuse one or more of Ms. Walters's absences at issue was arbitrary, not equitable under the circumstances, and not directed by reason. First, the Board treated Mr. O'Brien's request to reschedule the regular November meeting of the Board favorably and did the opposite with respect to Ms. Walters's requests to reschedule the September and December meetings. No explanation was given for why rescheduling the meeting to accommodate one Board member's work schedule was permitted, but the Board "just can't be moving meetings" for another member's work schedule.⁴ This disparate treatment of the Board members, for no explicable reason, is arbitrary.

Also, it bears emphasis that Ms. Walters did not miss the October regular meeting because of conflicting work obligations. Rather, it is undisputed that she missed that particular meeting so she could attend to her mother, who was in the hospital with a potentially life-threatening medical condition. Not excusing an absence that is based on familial obligations and not within the member's control shows a lack of empathy. And the Board's refusal to excuse this absence appears, at best, inequitable.

Finally, though not by itself justifying any particular course of action regarding the Board's complaint, it is worth noting that the Board violated the same statute that is the basis of its complaint against Ms. Walters. KRS 160.270(1) requires the Board to hold at least one regular meeting each month, and the statute itself provides no exception to that requirement. In November 2025, the Board failed to hold its regular meeting. Given the anticipated absence of its then-chair, Mr. O'Brien, it is perhaps understandable that the Board would desire to reschedule its November meeting and convert it to a special meeting instead. To be sure, this Office does not dispute the reasonableness of it doing so under the circumstances. But KRS 160.270(1) is the same statute that subjects a member of the Board to removal if the member misses three consecutive meetings. And the Board showed a less sympathetic view of Ms. Walters's failure to comply with the statute than it showed for its own failure—after Ms. Walters supported accommodating another Board member's absence for reasons similar to her own reasons for missing the September and December meetings.

⁴ Mr. O'Brien was the chair of the Board in 2025. But his status as Board chair is irrelevant to this issue, as "[a]ll present members of a board of education stand as equals, sharing the same rights and responsibilities to carry out the business of the board." OAG 77-495, 1977 WL 28293 (Aug. 12, 1977) (quoting OAG 75-517).

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Conclusion

One of the first obligations of an elected official is to show up to do the work he or she has been elected to do. Even so, the Board's actions in this case were arbitrary and inequitable. It is the judgment of this Office that no Jefferson Circuit Court judge sitting in equity would conclude, under the circumstances, that Ms. Walters should be adjudged as a usurper and removed from office under KRS Chapter 415. For this reason, the Office declines to initiate an ouster proceeding against Ms. Walters under KRS 415.060, and we will therefore close our file on this matter.

Sincerely,



Aaron J. Silletto
Executive Director
Office of Civil & Environmental Law

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Eric G. Farris
Rudy J. Ellis, III
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cc: Sharla Six, Superintendent
sharla.six@anchorage.kyschools.us

Hannah Barnes, Chair
hannah.barnes@anchorage.kyschools.us

Kayce Deutsch, Vice-Chair
kayce.deutsch@anchorage.kyschools.us

Andrew O'Brien
andrew.obrien@anchorage.kyschools.us

Sara Tyler
sara.tyler@anchorage.kyschools.us

Nancy-Lynne Walters
nancy.lynne.walters@anchorage.kyschools.us

Jason Woodall
Assistant Attorney General
jason.woodall@ky.gov

Bryan Jones
Acting Deputy Director
Office of Education Accountability
bryan.jones@kylegislature.gov