

COMMONWEALTH OF KENTUCKY
HOUSE OF REPRESENTATIVES
OF THE GENERAL ASSEMBLY

Matt Lockett

Petitioner

v.

Tyler Murphy

Respondent

**TYLER MURPHY’S RESPONSE TO PETITION FOR REMOVAL BY ADDRESS
AND REQUEST FOR DISMISSAL**

Respondent, Tyler Murphy, by counsel, respectfully states as follows in response to the petition for removal by address (the “Petition”) filed by Representative Matt Lockett. The Committee should dismiss the Petition.

I. INTRODUCTION

Mr. Murphy is, first and foremost, a teacher. He is a native Kentuckian and graduate of Transylvania University. He teaches AP U.S. Government & Politics, AP World History, and AP Human Geography at Boyle County High School. He is a National Board Certified Teacher.

Mr. Murphy has spent 15 years teaching Kentucky students. He ran for office to bring his classroom experience to the Fayette County Board of Education (“Board”). In 2018, Lexington voters elected him, and he has proudly served the citizens of Fayette County in that position since 2019, most recently winning the 2022 general election. His current term expires in January 2027.

In 2022, Forbes Magazine named the Fayette County Public Schools (“FCPS”) as Kentucky’s best employer. FCPS students continue to outperform state averages at every level. Seventy-five percent of Fayette County schools received a “very high,” “high,” or “medium” rating after the most recent Kentucky Summative Assessment. In 2025, four-year graduation rates reached an all-time high of 92.4%. The number of dual-credit courses has nearly doubled since 2022. FCPS has also made increases in teacher pay and became one of the first districts in the Commonwealth to offer paid parental leave.

On January 30, 2026, Matt Lockett filed a “**PETITION FOR REMOVAL BY ADDRESS OF TYLER MURPHY.**” If granted, the Petition would usurp the will of the voters of Fayette County and remove Mr. Murphy from the Board before he completes his term.

As set forth in Part II, the Committee should summarily dismiss the Petition, without reaching the merits. Each one of the following arguments separately mandates dismissal:

- The power of removal by address no longer exists. There is no current constitutional authority to remove anyone by address—not a school board member like Tyler Murphy, not anyone.
- Even when removal by address was previously constitutional, it only applied to judges, not anyone else, and certainly not a school board member.
- Even when removal by address was previously constitutional, it was a power held by the Governor, not solely by the House.
- Removal by address does not apply because a newer and specific statutory scheme governs the removal of school board members.

- The Attorney General under narrow circumstances is the only person authorized by law to institute and prosecute the removal of a school board member.
- The Petition lacks the affidavit required by KRS 63.030.
- Lawful votes are not constitutional misdemeanors as set forth in Section 68 of the Kentucky Constitution (“Misdemeanors”).
- A school board member is not a constitutional officer subject to Section 68 of the Kentucky Constitution.
- The Petition fails to state a violation of a Misdemeanor as set forth in Section 68 of the Kentucky Constitution.

Each argument is dispositive, and each one mandates dismissal of the entire Petition.

In addition, as is set forth in Part III, the Petition fails on the merits. The seven charges in the Petition fail to make allegations that constitute a Misdemeanor. The Committee should dismiss the Petition.

II. THE COMMITTEE SHOULD SUMMARILY DISMISS THE PETITION.

Each one of the following arguments separately mandates dismissal, without reaching the factual merits.

a. THE POWER OF REMOVAL BY ADDRESS NO LONGER EXISTS.

The Petition begins by asserting that under “Section 66 of its Constitution and KRS 63.060, I petition for the removal by address of Tyler Murphy, chairman and Member of the Fayette County Board of Education (FCBE). Removal from office is warranted because Mr. Murphy breached the public trust and engaged in a variety of inappropriate acts, any one of which constitutes a misdemeanor in office under Section 68 of the Kentucky Constitution.”

The Petition's request for removal by address is unconstitutional. Stated simply, the power of removal by address no longer exists.

In 1891, the current Constitution of Kentucky was adopted. In 1976, the provisions in the Constitution containing the power of removal by address, Sections 117 and 136, were *repealed*. The now-repealed Section 117 stated,

THE JUDICIAL DEPARTMENT.

... COURT OF APPEALS.

....

Sec. 117 The Judges of the Court of Appeals shall severally hold their offices for the term of eight years, commencing on the first Monday in January next succeeding their respective elections, and until their several successors are qualified, subject to the conditions hereinafter prescribed. For any reasonable cause the Governor shall remove them, or any one or more of them, on the address of two-thirds of each House of the General Assembly; Provided, The cause or causes for which said removal shall be required shall be stated at length in such address and in the journal of each House. They shall at stated times receive for their services an adequate compensation, to be fixed by law.

1891 Ky. Const. § 117 (repealed 1976).¹

¹ LIBRARY OF CONGRESS, *Image 28 of the Constitution of the commonwealth of Kentucky*, <https://www.loc.gov/resource/gdcmassbookdig.constitutionofco00kent/?sp=28&st=image&r=-1.009,-0.09,3.019,1.802,0> (last accessed Feb. 16, 2026). In 1891, Section 117 was adopted in substantially the same form as the previous provision from the 1850 Constitution, which provided for removal by address of Court of Appeals judges. *Compare* 1891 Ky. Const. § 117 (repealed 1976) *with* 1850 Ky. Const. Art. IV § 3. Article IV Section 3 of the 1850 Constitution stated,

The Judges of the Court of Appeals shall, after their first term, hold their offices for eight years, from and after their election, and until their successors be duly qualified, subject to the conditions hereinafter prescribed; but for any reasonable cause, the Governor shall remove any of them on the address of two-thirds of each house of the General Assembly: Provided, however, that the cause or causes for which such

Similarly, the now-repealed Section 136 stated,

THE JUDICIAL DEPARTMENT.

...

CIRCUIT COURTS.

...

Sec. 136. The Judges of the Circuit Court shall hold their offices for the term of six years from the date of their election, except as provided in Section 134. They shall be commissioned by the Governor, and continue in office until their successors shall have been disqualified, but shall be removable in the same manner as the Judges of the Court of Appeals, and the removal of a Judge from his district shall vacate his office.

Ky. Const. § 136 (repealed 1976).² The current Kentucky Constitution says nothing about removal by address. The power of removal by address no longer exists.

removal may be required, shall be stated at length in such address, and on the journal of each house. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during the time for which they shall have been elected.

1850 Ky. Const. Art. IV § 3. See WORDSERVICE.ORG, *The Kentucky Constitution of 1850: Third Constitution of Kentucky*, <https://www.wordservice.org/State%20Constitutions/usa1040.htm> (last accessed Feb. 16, 2026).

² LIBRARY OF CONGRESS, *Image 31 of the constitution of the commonwealth of Kentucky*, <https://www.loc.gov/resource/gdcmassbookdig.constitutionofco00kent/?sp=31&st=image&r=-1.009,-0.007,3.019,1.802,0> (last accessed Feb. 16, 2026). Like Section 117, in 1891, Section 136 was adopted in substantially the same form as the previous provision from the 1850 Constitution, which provided for removal by address of circuit court judges. Compare 1891 Ky. Const. § 136 (repealed 1976) with 1850 Ky. Const. Art. IV § 23. Article IV Section 23 of the 1850 Constitution stated,

The Judges of the Circuit Court shall, after their first term, hold their office for the term of six years from the day of their election. They shall be commissioned by the Governor, and continue in office until their successors be qualified, but shall be removable from office in the same

KRS 63.060 was recodified into the Kentucky Revised Statutes in 1942.³ At that time, KRS 63.060 simply provided the procedural mechanism for removal by address. At the time of the 1942 recodification, KRS 63.060 was constitutional because it comported with the then-Sections 117 and 136 of the Kentucky Constitution. But when the 1976 amendments to the current Constitution repealed Sections 117 and 136, the constitutional power of removal by address ceased to exist. In other words, removal by address is no longer constitutional. KRS 63.060 is no longer constitutional—it provides a procedural mechanism for something that no longer exists.

Our Constitution is “an instrument of words, granting powers, restraining powers, and reserving rights.” *Dalton v. State Property & Bldgs. Com.*, 304 S.W.2d 342, 361 (Ky. 1957). In our constitutional system, the General Assembly’s powers are limited to those powers set forth in the Kentucky Constitution.

In 1860, Kentucky’s highest court addressed the constitutionality of a jailer’s removal. *Lowe v. Commonwealth*, 60 Ky. 237 (Ky. 1860). The General Assembly had

manner as the Judges of the Court of Appeals; and the removal of a Judge from his district shall vacate his office.

1850 Ky. Const. Art. IV § 23. See WORDSERVICE.ORG, *The Kentucky Constitution of 1850: Third Constitution of Kentucky*, <https://www.wordservice.org/State%20Constitutions/usa1040.htm> (last accessed Feb. 16, 2026).

³ See, e.g., UNIVERSITY OF LOUISVILLE LOUIS D. BRANDEIS SCHOOL OF LAW LIBRARY *Kentucky Revised Statutes 75th Anniversary: Official Documents*, <https://library.louisville.edu/law/krs75/documents> (discussing the 1942 recodification of all Kentucky statutes into the Kentucky Revised Statutes).

passed a statute granting county courts the right to remove a jailer. *Id.* at 238. The jailer challenged “the constitutional power of the legislature to enact the law” permitting a judge to remove a jailer. *Id.* at 239.

Kentucky’s highest court held that the statute permitting the removal of jailers was unconstitutional because it exceeded the provisions of the 1850 Kentucky Constitution on the removal of jailers. *Id.* at 243. The 1850 Constitution had two provisions on the removal of jailers, and the statute passed by the General Assembly was a separate mode of removal that contradicted those constitutional provisions. *Id.* at 240. Kentucky’s highest court held that “it is beyond the power of the legislature to remove such officer or suspend him from office for any other reason or in any other mode than the constitution itself has furnished.” *Id.* at 241. When a removal violates the Constitution, the removal is “unconstitutional, inoperative, and of no effect” and “the proceedings hereunder are illegal and void.” *Id.* at 243.

The Kentucky Constitution no longer says anything about removal by address. Nothing in the Kentucky Constitution grants authority to remove Mr. Murphy or anyone else by address. Removal by address is “now unconstitutional.” Ex. 1, Excerpts from SHAWN D. CHAPMAN, *Removing Recalcitrant County Clerks in Kentucky*, 105 UNIVERSITY OF KENTUCKY LAW JOURNAL 261, 312 (2017). The Petition’s request for removal by address is unconstitutional, and the Committee should summarily dismiss the Petition.

b. WHEN REMOVAL BY ADDRESS EXISTED, IT APPLIED ONLY TO JUDGES.

In 1891, the present Constitution of Kentucky was adopted, replacing the 1850 Kentucky Constitution. Kentucky’s previous constitutional provisions on removal by address only applied to judges:

- The *Judges of the Court of Appeals* shall severally hold their offices ... subject to the conditions hereinafter prescribed. For any reasonable cause the Governor shall remove them, or any one or more of them, on the address of two-thirds of each House...” Ky. Const. § 117 (repealed 1976) (emphasis added).
- “The *Judges of the Circuit Court* ... shall be removable in the same manner as the Judges of the Court of Appeals...” Ky. Const. § 136 (repealed 1976) (emphasis added).

Before 1891, the 1850 Constitution similarly limited removal by address to judges. *See supra* Part II(a), n. 1 & n. 2.⁴

Mr. Murphy is not a judge. He is a school board member, chair of the Board, and an educator. There is no basis or authority for the Petition’s attempt to expand the centuries-old understanding that removal by address applied only to judges.

KRS 63.060 provides, “A person may, in the manner prescribed by KRS 63.030, petition either the Senate or the house of Representatives or both to have an *officer* removed by address, which petition shall, in like manner, be referred to a committee.” KRS 63.060 (emphasis added). When removal by address existed, only judges could be removed by address. When KRS 63.060 was recodified in 1942, the word “officer” in that statute meant judges in accordance with the then-existing constitutional provisions permitting removal of judges by address. Interpreting “officer” to include

⁴ *See also*, CHAPMAN at 311 (“There is little suggestion that [removal by address] has ever been contemplated as a procedure for removing non-judicial officers.”).

anyone other than a judge exceeds the parameters set forth in those now-repealed constitutional provisions. *See, e.g., Lowe v. Commonwealth*, 60 Ky. 237, 241 (Ky. 1860) (“it is beyond the power of the legislature to remove such officer or suspend him from office for any other reason or in any other mode than the constitution itself has furnished.”).

The Committee should summarily dismiss the Petition because Mr. Murphy is not a judge.

c. EVEN WHEN REMOVAL BY ADDRESS WAS PREVIOUSLY CONSTITUTIONAL, IT WAS A POWER HELD ONLY BY THE GOVERNOR, NOT SOLELY BY THE HOUSE.

When removal by address existed, the power of removal rested with the Governor:

- The Judges of the Court of Appeals shall severally hold their offices ... subject to the conditions hereinafter prescribed. For any reasonable cause the ***Governor shall remove them***, or any one or more of them, on the address of two-thirds of each House...” Ky. Const. § 117 (repealed 1976) (emphasis added).
- “The Judges of the Circuit Court ... shall be ***removable in the same manner*** as the Judges of the Court of Appeals...” Ky. Const. § 136 (repealed 1976) (emphasis added).

These now-repealed provisions required a 2/3 vote of each House before the Governor could remove a judge by address. But here, the Petition asks for “the House of Representatives to remove by address Tyler Murphy ...,” suggesting that the House alone has the power of removal by address. Even when removal by address existed, this relief was unavailable.

d. KRS 63.060 DOES NOT APPLY TO REMOVAL OF A SCHOOL BOARD MEMBER.

Understanding KRS 63.060 begins “as always, with the text of the statute.” *Hawaii v. Office of Hawaiian Affairs*, 556 U.S. 163, 173 (2009). KRS 63.060 provides, “A person may, in the manner prescribed by KRS 63.030, petition either the Senate or the house of Representatives or both to have an officer removed by address, which petition shall, in like manner, be referred to a committee.” KRS 63.060.

KRS 63.060 says nothing about school board members or their removal. It uses the word “officer” which meant judge at the time of its enactment. *See* Part II(b). In contrast to “officer” in KRS 63.060, a specific statutory scheme governs the removal of school board members: KRS 160.180(3), 415.050, & 415.060. KRS 160.180(3) specifies the narrow types of conduct committed by a school board member that constitute removable offenses:

3(a) *A member of a board of education shall be subject to removal from office* pursuant to KRS 415.050 and 415.060 if, after the election, the member:

1. Becomes interested in any contract with or claims against the board, of the kind mentioned in subsection (2)(e) of this section;
2. Moves his or her residence from the division for which he or she was chosen;
3. Attempts to influence the employment of any school employee, except the superintendent or school board attorney;
4. Is convicted of a felony;
5. Performs acts of malfeasance in performance of duties prescribed by law;
6. Willfully misuses, converts, or misappropriates public property or funds; or

7. Does anything that would render the member ineligible for reelection.

KRS 160.180(3)(a) (emphasis added). The Petition does not allege that Mr. Murphy is subject to removal under any of these provisions. Nor do any of the charges in the Petition come close to constituting the conduct set forth in the statute. KRS 415.050 and KRS 415.060, discussed in the next section, describe the procedure for the Attorney General’s investigation into and potential pursuit of removal of a school board member.

The word “shall” in KRS 160.180(3) is mandatory. KRS 446.010(39). The General Assembly specified the conduct of school board members that mandated their removal and mandated the procedure for which a school board member may be removed through KRS 415.050 and KRS 415.060.

These specific statutes on the removal of school board members govern over the generic KRS 63.060. *See, e.g., Abel v. Austin*, 411 S.W.3d 728, 738 (Ky. 2013) (“The applicable rule of statutory construction where there is both a specific statute and a general statute seemingly applicable to the same subject is that the specific statute controls.”). Moreover, the General Assembly passed this change in law on the removal of school board members in 2024. 2024 Ky. Acts Ch. 215 § 1.⁵ That 2024 passage is far more recent than the 1942 recodification of the generic KRS 63.060.

⁵ HB 449 passed the House of Representatives with 96 yeas, 0 nays, and 2 not voting (Dossett & Willner). The petitioner, Representative Matt Lockett, voted in favor of changing the law on the removal of school board members. KY. GENERAL ASSEMBLY, House Bill 449 https://apps.legislature.ky.gov/record/24rs/hb449/vote_history.pdf (last accessed Feb. 14, 2026).

See Abel v. Austin, 411 S.W.3d 728, 738 (Ky. 2013) (the “later statute is given effect over an earlier statute.”).

Because the specific and newer statutory scheme on removing school board members governs, the generic and older KRS 63.060 does not apply to school board members. The Committee should summarily dismiss the Petition because KRS 63.060 does not apply to the removal of school board members.

e. ONLY THE ATTORNEY GENERAL CAN PURSUE REMOVAL OF A SCHOOL BOARD MEMBER.

KRS 160.180(3) provides, in relevant part, “A member of a board of education shall be subject to removal from office *pursuant to KRS 415.050 and 416.060 ...*”

KRS 63.060 (emphasis added). KRS 415.050 says,

415.050 Duties of the Attorney General.

For usurpation of other than county offices or franchises, the action by the Commonwealth *shall be instituted and prosecuted by the Attorney General.*

KRS 415.050 (emphasis added). KRS 415.060 says, “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.

Kentucky law is clear. The “shall” in KRS 415.050 is mandatory. KRS 446.010(39). KRS 415.050 makes plain that the sole authority to institute and prosecute the removal of a school board member rests with the Attorney General under very narrow circumstances that do not apply here. The General Assembly specifically granted this authority to the Attorney General; the Petition cannot now

contradict this. The Committee should summarily dismiss the Petition because the General Assembly granted the Attorney General with the sole authority to institute and prosecute the removal of a school board member.

f. THE PETITION LACKS THE REQUIRED KRS 63.030 AFFIDAVIT.

The Petition asks for removal by address under KRS 63.060. KRS 63.060 provides, “A person may, *in the manner prescribed by KRS 63.030*, petition either the Senate or the house of Representatives or both to have an officer removed by address, which petition shall, in like manner, be referred to a committee.” KRS 63.060 (emphasis added). KRS 63.030 provides,

Any person may, by written petition to the House of Representatives, signed by himself, *verified by his own affidavit* and the affidavits of others as he deems necessary, and setting forth the facts, pray the impeachment of any officer.

KRS 63.030 (emphasis added). Removal by address petitions require an affidavit. The Petition lacks the required affidavit. The Committee should summarily dismiss the Petition because it lacks the required affidavit.

g. LAWFUL VOTES ARE NOT CONSTITUTIONAL MISDEMEANORS.

The Petition complains about certain votes Mr. Murphy took in his capacity as a school board member. *See, e.g.*, Petition at 1 (alleging an offense that “Mr. Murphy voted to certify...”). The Petition also alleges offenses for policy proposals it asserts Mr. Murphy made. *See, e.g.*, Petition at 2 (“Mr. Murphy proposed a policy...”).

State and local legislators are entitled to absolute legislative immunity under the common law. *Bogan v. Scott-Harris*, 523 U.S. 44, 49 (1998). “The protections of legislative immunity are well-established and are inculcated into the common law of

the United States and the Commonwealth.” *Harilson v. Lexington H-L Servs.*, 604 S.W.3d 290, 293 (Ky. App. 2019). Legislative immunity “protect[s] legislators from liability for actions related to legislative acts.” *Legislative Research Comm’n v. Leightty*, 830 (Ky. App. 2021). “This immunity covers matters which are integral to the deliberative and communicative processes with respect to both the consideration and passage of legislation as well as other constitutional acts within the jurisdiction of the legislature.” *Id.*

The absolute legislative immunity for voting decisions as well as the deliberative and communicative processes supports the conclusion that lawful votes are not Misdemeanors. Seeking removal for a legislator’s lawful vote is inconsistent with legislative immunity, the purpose of which is to foster robust political debate by our legislators. The Committee should summarily dismiss the Petition because lawful votes are not constitutional Misdemeanors.

h. A SCHOOL BOARD MEMBER IS NOT A CIVIL OFFICER.

The Petition contends that removal by address is warranted because Mr. Murphy allegedly committed a “misdemeanor in office,” citing Section 68 of the Kentucky Constitution.

Section 68 provides, “The Governor and all *civil officers* shall be liable to impeachment for any misdemeanors in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial and punishment by law.” Ky. Const. § 68 (emphasis added).

A school board member is not a “civil officer” within the meaning of Section 68. A civil officer under Section 68 means a constitutional officeholder: a person whose office is explicitly defined in the Constitution. For example, Section 100 of the Constitution sets forth the eligibility for Commonwealth’s Attorneys, among other constitutional offices. Ky. Const. § 100. Section 97 provides that Commonwealth’s Attorney elections occur every six years. Ky. Const. § 97. In *Howard*, Kentucky’s highest court affirmed a lower court’s ruling that a Commonwealth’s Attorney is a “constitutional officer” for which “Sec. 68 of the Constitution provided a method of removal.” *Commonwealth ex rel. Attorney Gen. v. Howard*, 180 S.W.2d 415, 416 (Ky. 1944). Only officers who hold offices “created by the Constitution” are subject to removal under Section 68. *Id.* at 417.

In contrast to Commonwealth’s Attorneys, the Kentucky Constitution does not mention school board members at all, much less set forth their eligibility requirements or election timelines. There is zero indication that the Framers of the 1891 Constitution intended that “civil officers” extend to school board members that are not even mentioned in the Constitution. School board members are not civil officers under Section 68 of the Constitution. The Committee should dismiss the Petition because Mr. Murphy is not a civil officer as set forth in the Constitution.

i. THE PETITION FAILS TO STATE A VIOLATION OF A CONSTITUTIONAL MISDEMEANOR.

The Petition seeks removal by address, claiming Mr. Murphy committed a constitutional Misdemeanor under Section 68.

Section 68 provides, “The Governor and all civil officers shall be liable to impeachment for any *misdemeanors* in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial and punishment by law.” Ky. Const. § 68 (emphasis added).

Article II Section 4 of the U.S. Constitution provides, “The President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors.” U.S. Const. art. II sec. 4. However, the Framers of the Kentucky Constitution only listed Misdemeanors as impeachable offenses and did not include treason, bribery, or other high Crimes. Section 68 is far narrower than the federal impeachment provision.

Section 68 of Kentucky’s Constitution does not define “misdemeanor.” However, “[u]sually an officer is impeached as a result of criminal conduct, generally after an indictment has been lodged against the individual.” Ex. 2, LEGISLATIVE RESEARCH COMMISSION, *Impeachment in Kentucky*, at 1 (1991) (appendices & blank pages omitted). The “framers envisioned that impeachment would be associated with some form of criminal conduct, as it provides that ‘the party convicted [in an impeachment trial] shall, nevertheless, be subject and liable to indictment, trial and punishment by law.’” *Id.* (quoting Ky. Const. § 68).

The Petition does not state a violation of a constitutional Misdemeanor. The framers of Kentucky’s Constitution intended that “Misdemeanor” refer only to criminal conduct. Nothing in the Petition accuses Mr. Murphy of any criminal conduct. The Petition does not even allege a criminal offense. Instead, the charges are all policy disagreements with legislative acts Mr. Murphy has taken in his role as a duly-elected member of the Board. The common law absolute immunity of legislative acts further demonstrates that the alleged actions cannot constitute Misdemeanors. The Committee should dismiss the Petition because the Petition does not allege a constitutional Misdemeanor.

III. THE PETITION’S FACTUAL CHARGES AGAINST MR. MURPHY FAIL.

In addition to the reasons to summarily dismiss the Petition, the charges alleged in the Petition fail on their merits.

a. CHARGE 1 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The first charge in the Petition states,

Between January 2023 and May 2025, Superintendent Demetrus Liggins charged more than \$150,000 in expenses to his Fayette County Public Schools (FCPS) charge card. Many of Mr. Liggins’ expenditures were excessive and/or personal in nature and therefore inappropriate and non-allowable. Mr. Murphy failed to perform his duty to provide adequate oversight.

Petition at 2 (“Charge 1”).

This charge reflects several misunderstandings. FCPS had a procurement card (often called a p-card) that could be used for authorized expenditures of the school system. The expenses between January 2023 and May 2025 were incurred by numerous employees and benefited numerous students. They were not

Superintendent Liggins' personal expenses. Each expenditure was specific and authorized. FCPS's policy required each expenditure to be coded and allocated to a specific part of the budget. Expenditures were supported with receipts. FCPS employees conducted a reconciliation process each month that involved review of the receipts and documented business purposes for each expenditure. The expenditures from 2023 through 2025 were authorized, within spending authority, within the budgeted amounts, and were subjected to review by the FCPS financial department. The expenses included the cost of teachers attending conferences for professional learning, student field trips in and out of state, and supplies for students.

The superintendent's role is to "prepare or have prepared all budgets, salary schedules, and reports required of his board by the Kentucky Board of Education." KRS 160.390(1). A public-school superintendent is "the executive agent of the board that appoints him or her[.]" KRS 160.370(1). The superintendent is "the professional adviser of the board in all matters." KRS 160.370(1). The superintendent "shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils and the management of business affairs." KRS 160.370(1). The superintendent is the one who "shall see that the laws relating to the schools, the bylaws, rules, and regulations of the Kentucky Board of Education, and the regulations and policies of the district board of education are carried into effect." KRS 160.370(1). In other words, the board does not micromanage the superintendent. Mr. Murphy is only one member of a five-member board.

This charge incorrectly claims Mr. Murphy had an individual duty to provide adequate oversight. KRS 160.290 authorized the board as a whole to control the funds of FCPS and to implement rules and regulations to do so. Mr. Murphy was not obligated to oversee particular expenditures of FCPS. Rather, he was permitted to and did rely on policies and professionals who were specifically tasked with doing so. All of the expenditures at issue were vetted and approved by FCPS. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

b. CHARGE 2 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The second charge in the Petition states,

For a period of several months in early 2025, Mr. Murphy knew about a \$16,000,000 budget deficit and failed to inform some of his fellow members of the Fayette County Board of Education.

Petition at 1 (“Charge 2”).

This charge also reflects misunderstandings. Each year, FCPS employees engage in a rigorous process to determine the following year’s budget. The Budget and Staffing Roadmap that describes this process is attached as Exhibit 3. During the development of tentative budget, the FCPS employees determined a \$16 million difference in the estimated revenue and expenses for the tentative 2025-2026 budget. FCPS published a detailed description of the process that resulted in this determination and the steps the district took to address the anticipated issue. *See* Ex. 4, Excerpts from *Fayette County Public Schools Budget and Finance Facts Background, Context, and Details*, at 10–13. All board members were notified of the tentative shortfall. *See* Ex. 5, Board Meeting Buzz (May 12, 2025). Ultimately the

FCPS addressed the projected shortfall and is operating under a balanced budget. There is simply no factual basis for the allegation that Mr. Murphy failed to timely inform board members board members. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

c. CHARGE 3 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The third charge in the Petition states,

In May 2025, Mr. Murphy voted to certify a multi-million dollar increase in the occupational and licensing taxes that are imposed on Fayette County residents' incomes without complying with the statutory notice requirements in KRS 160.

Petition at 1 ("Charge 3").

Charge 3 fails to allege any Misdemeanor. Mr. Murphy's lawful votes on the Board do not constitute a constitutional Misdemeanor. Permitting removal for a lawful vote would lead to a flood of impeachment petitions by citizens who disagree with a legislator's or governmental board member's vote or policy choice. The Framers did not intend the impeachment power to apply to the performance of one's official role, even in controversial circumstances.

A vote followed by an after-the-fact opinion by Attorney General's Office that a notice requirement was violated also does not constitute a Misdemeanor. If it did, any Open Meetings Act ruling adverse to a public agency could give rise to impeachment petitions. Any after-the-fact court ruling that legislation passed by the General Assembly is unconstitutional could give rise to impeachment petitions. There is no authority suggesting that an after-the-fact opinion that a vote is void constitutes a Misdemeanor.

This is particularly true when a public agency acts upon advice of counsel. Here, the Board retained counsel, Tim Eifler of Stoll Keenon Ogden PLLC, regarding occupational license tax issues. Mr. Eifler is an experienced, well-respected tax lawyer. He is the chair of Stoll Keenon Ogden’s Tax Practice and concentrates his practice on complex state and local tax issues.⁶ Mr. Eifler publicly “disagreed with the [A]ttorney [G]eneral’s opinion that the school board’s process in voting to ask the fiscal court to raise the vote was unlawful. He said because the fiscal court would have been voting on the increase, the notice was not necessary.” Ex. 6, LEXINGTON HERALD-LEADER, *Fayette school board pauses controversial tax increase after state audit threat* (Jun. 10, 2025) (last accessed Feb. 15, 2026). In Kentucky, advice of counsel is a defense. *See, e.g., Garcia v. Whitaker*, 400 S.W.3d 270, 275 (Ky. 2013). There simply is no support for the contention that voting in accordance with legal advice a board receives constitutes a Misdemeanor.

This is particularly true where it appears that Mr. Eifler is correct and OAG 25-07, upon which Charge 3 is based, may be wrong. *See* Ex. 8, OAG 25-07. OAG 25-07 relied on KRS 160.603 in support of its conclusion that the school board was required to provide notice prior to its vote on increasing the occupational license tax. But the plain language of KRS 160.603 states, “No school district board of education shall levy ...school taxes...until after compliance with the [notice requirement].” Thus, when the board of education is not the entity levying the tax, the notice

⁶ STOLL KEENON OGDEN, *Timothy J. Eifler*, <https://www.skofirm.com/attorney/timothy-j-eifler/> (last accessed Feb. 17, 2026).

requirement does not apply. The Board voted to increase the occupational license tax to 0.75% pursuant to KRS 160.607, which applies to counties having 300,000 or more inhabitants. Occupational license taxes in counties with more than 300,000 inhabitants are governed by KRS 160.482 to 160.488, which provide that the levying entity is the fiscal court. Independent notice requirements exist for a fiscal court to pass an ordinance providing for a levy of the occupational license tax. This is why the notice requirement in KRS 160.607 is limited to the levying of an occupational license tax by a board of education (and not when a fiscal court does so). Regardless of this complex analysis, non-lawyer members of the Board like Mr. Murphy must be permitted to rely on specialized legal advice and cannot be subjected to removal efforts if the Office of the Attorney General subsequently reaches a different conclusion. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

d. CHARGE 4 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The fourth charge in the Petition states,

Mr. Murphy caused or allowed FCPS to enter into a lobbying contract for the purpose of supporting a multi-million dollar increase in the occupational and licensing taxes that are imposed on Fayette County residents' incomes without complying with the statutory notice requirements in KRS 160.

Petition at 1 ("Charge 4").

Charge 4 fails to allege any Misdemeanor. The approval of a lobbying contract to assist a board of education achieve its mission cannot subject a board member to removal.

Charge 4 appears to take issue with a lobbying contract the superintendent entered into in May 2025 for specific services with its long-time lobbying firm. *See Ex. 8, May 2025 Contract.* The Petition fails to appreciate the authority of the superintendent to enter contracts and incorrectly assumes that individual board members “cause or allow[]” every contract that is entered. The Board’s General Powers and Duties only require board approval for any contract exceeding \$40,000. *See Ex. 9, Powers & Duties of the Board.* The contract at issue was under the threshold requiring board approval. The Petition does not state otherwise. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

e. CHARGE 5 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The fifth charge in the Petition states,

Mr. Murphy voted and encouraged other members of the Board to vote to hire a Texas-based audit firm to review FCPS’s financial records even though the Auditor of Public Accounts already announced that her office would be conducting a similar review.

Petition at 1 (“Charge 5”).

Charge 5 fails to allege the commission of any Misdemeanor. Voting in favor of an outside audit to ensure fiscal responsibility is not a ground for removal in the Kentucky Constitution. Charge 5 is inconsistent with the rest of the Petition and illogical. It is illogical to suggest that Mr. Murphy’s vote for an *additional* audit somehow means that he “failed to satisfy his duty to provide adequate oversight of FCPS finances[.]” Petition at 2. If anything, voting for an additional audit demonstrates Mr. Murphy’s commitment to fiscal responsibility. Outside audits are

not only commonplace, they are an appropriate exercise of the Board’s authority, especially when the recommendation for an outside audit came from the audit committee after being asked for its input by a unanimous vote of the Board on September 16, 2025. *See* Ex. 10, Sept. 16, 2025 Board Meeting Minutes. A firm was chosen after a competitive bid process. *See* Ex. 11, Executive Summary of Award of RFP for Audit (“The Audit Committee is recommending the firm that best demonstrates an optimal balance of technical methodology, relevant experience, cost-efficiency, and timely resource availability to meet these requirements.”). The award explicitly notes that the “engagement will be conducted in conjunction with the State APA Audit, with the scope remaining flexible to reduce duplication.” *See* Ex. 11, Executive Summary of Award of RFP for Audit. A detailed account of the facts leading up to the vote to obtain an external independent audit is attached. *See* Ex. 5, Excerpts from *Fayette County Public Schools Budget and Finance Facts Background, Context, and Details*, at 3–5. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

f. CHARGE 6 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The sixth charge in the Petition states,

Mr. Murphy proposed a policy that would prohibit a FCBE member who voted against an adopted measure from speaking with reporters about that measure.

Petition at 2 (“Charge 6”).

Charge 6 fails to allege the commission of any Misdemeanor. Although there is no factual support for the allegation that Mr. Murphy proposed the policy at issue,

there is also no constitutional support for removing a board member for a policy proposal. The whole point of the legislative process is to propose many ideas, most of which never become law. Proceeding with removal for a proposal that never became law would incentivize a flood of petitions by citizens who disagree with any legislator's policy proposal.

In any event, the charge appears to stem from a November 26, 2025 article from the *Lexington Herald-Leader*. That article concerned a proposal on the Board's agenda that would limit board members in the minority on a particular vote from reviving their dissenting positions in the media. Mr. Murphy did not make this proposal, and the article actually quotes Mr. Murphy's opposition to it: "I don't think we want to put ourselves in a position of trying to police what individuals say or don't say in their individual capacities," school board chairman Tyler Murphy said at Monday night's school board meeting." Ex. 13, LEXINGTON HERALD-LEADER, *Fayette County school board members won't vote on policy to muzzle dissent after outcry* (Nov. 26, 2025). Mr. Murphy further expressed his opposition to the proposal: "It also gave me concern. I'm not interested in moving forward with this kind of language." *Id.* The record is clear that Mr. Murphy did not propose the language, which did not become policy anyway. The Fayette County School Board Governance Manual, revised in February 2026, reflects the Board's ongoing commitment to the First Amendment: "Nothing in this section shall be construed to limit an individual's First Amendment protections." Ex. 14, FAYETTE COUNTY PUBLIC SCHOOLS, Excerpts from

the *School Board Governance Manual*, at 16. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

g. CHARGE 7 FAILS TO CONSTITUTE THE COMMISSION OF A MISDEMEANOR.

The seventh charge in the Petition states,

Mr. Murphy allowed or approved of a massive increase in expenditures of FCPS funds on administrative (i.e., non-teaching) activities in recent years.

Petition at 2 (“Charge 7”).

Charge 7 fails to allege the commission of any Misdemeanor. First, seeking removal of a board member for budget votes has no support in the Kentucky Constitution. Proceeding with removal for a legislator’s lawful votes on government expenditures would incentivize a flood of petitions by citizens who disagree with any legislator’s vote or policy choice. It is not a Misdemeanor to vote on a budget.

Second, while it is unclear what increases the Petition is referring to, it is true that inflation and other factors have driven up the costs of non-teaching expenses during Mr. Murphy’s tenure on the Board. However, Mr. Murphy and other members of the Board have the right to rely on the guidance of professionals who recommend reasonable and necessary expenses, which are publicly available. Mr. Murphy is only one member of a five-member board, and there is no allegation in the Petition that any expenses for non-teaching activities fail to comply with any law. Moreover, during Mr. Murphy’s tenure on the Board, the percentage of administrative costs compared to the total budget has actually decreased. Administrative costs are currently around 1.2% of the entire budget. See Ex. 14, FAQs for Fiscal Year 2026

Tentative Budget. This charge fails factually and legally to allege a violation of a constitutional Misdemeanor.

h. THE PETITION FAILS TO STATE REMOVABLE OFFENSES.

The Petition contains a section titled, “Tyler Murphy’s Actions are IMPEACHABLE OFFENSES.” But none of the allegations that follow constitutes a constitutional Misdemeanor.

The first three conclusions set forth in the Petition all have to do with finances:

- “Tyler Murphy failed to satisfy his duty to provide adequate oversight of FCPS finances, in violation of KRS 160.290 (“Each board shall have control and management of all school funds[.]” Petition at 2.⁷
- “Tyler Murphy failed to inform his fellow members of the Fayette County Board of Education and members of the public about FCPS’s perilous financial situation, in violation of his fiduciary duties.” Petition at 2.
- “Tyler Murphy failed to provide adequate oversight of Mr. Liggins and other employees’ use of FCPS funds, in violation of his fiduciary duties, *Funk v. Milliken*, 317 S.W.2d 499, 507 (Ky. 1958) (‘In determining whether an expense is in an allowable category,’ a local governing authority’s decision “will be governed by the consideration of whether the expense is official rather than personal in nature.’), and KRS 160.290.” Petition at 2.

As discussed in Parts III(a), (b), and (e), none of the charges lobbed at Mr. Murphy about finances have any merit.

Mr. Murphy is one of five board members. Boards of education are statutorily entitled to rely on the superintendent, “the executive agent of the board[.]” KRS 160.370(1). FCPS employs a qualified team to navigate through the structured

⁷ The full sentence of that statute says, in relevant part, “Each board shall have control and management of all school funds and all public school property of its district and ***may use its funds and property to promote public education.***” KRS 160.290(1) (emphasis added).

budget process. That process resulted in a vote by the Board to approve a balanced budget.

The only case cited in the Petition, *Funk v. Milliken*, does not apply. The full sentence as set forth in that case says: “In determining whether an expense is in an allowable category, whether the determination is made in advance or when the officer makes his settlement at the end of each year, the *fiscal court* will be governed by the consideration of whether the expense is official rather than personal in nature.” *Funk v. Milliken*, 317 S.W.2d 499, 507 (Ky. 1958) (emphasis added). That case applies only for a “county officer who is compensated wholly or in part from fees”. *Id.* at 506. When a county officer is paid by fees, the officer “is required to pay over to the county, each year, the excess of receipts over and above the amounts allowable for his personal compensation, the compensation of his legally authorized deputies and assistants, and authorized official expenses.” *Id.* None of that applies or is relevant here.

In any event, there is no factual support (and no allegation in the Petition) that the superintendent was reimbursed for personal expenses nor was the Board on notice of that. Moreover, any allegation that Board members were not informed about the potential shortfall of the tentative 2025-2026 budget is contradicted by records showing that all Board members were fully informed.

The remaining conclusion in the Petition says, “Mr. Murphy failed to comply with the public notice requirements that must be followed before a school district may

certify an increase in occupational and licensing taxes, in violation of KRS 160.603.”
As discussed in Part III(c) and (d), that contention lacks any merit.

The Petition concludes by saying, “[A]ny one of these actions alone qualifies as a misdemeanor in office under the Kentucky Constitution. When taken together, the result is clear: Tyler Murphy must be removed from office.” To the contrary, as discussed throughout this brief, the Petition does not allege a single Misdemeanor as set forth in Kentucky’s Constitution. The Committee should dismiss the Petition because the Petition does not allege a constitutional Misdemeanor.

IV. CONCLUSION

In 1860, Kentucky’s highest court made clear that a removal that violates the Constitution is “unconstitutional, inoperative, and of no effect[.]” *Lowe v. Commonwealth*, 60 Ky. 237, 243 (Ky. 1860). Representative Lockett’s petition for removal address of Mr. Murphy violates the Kentucky Constitution and is meritless in any event. The claims in the Petition “are illegal and void.” *Id.* The Committee should dismiss the Petition.



DINSMORE & SHOHL LLP
Kenyon Meyer
Sarah Reddick
101 S. Fifth Street, Suite 2500
Louisville, KY 40202
(502) 540-2300
Kenyon.meyer@dinsmore.com
Sarah.reddick@dinsmore.com
Attorneys for Mr. Murphy

CERTIFICATE OF SERVICE

On February 18, 2026, a copy of this Brief and its exhibits was sent via email to Rep. Jason Nemes, Jason.nemes@kylegislature.gov.

A handwritten signature in blue ink that reads "Kayan Meyer". The signature is written in a cursive style.

Attorney for Mr. Murphy