

**COMMONWEALTH OF KENTUCKY
COOurt OF JUSTICE
TENTH CIRCUIT COURT, DIVISION _____
NELSON CIRCUIT COURT
CASE NO. 22-CI-_____
ELECTRONICALLY FILED**

**JOHN DAVID "JACK" SEAY
AMANDA ROGERS DEATON
CHRISTOPHER MICHAEL DUDGEON
DANIEL GREENWELL
DEBRA BOHACHEVSKY
SUSAN SANTA CRUZ-ROGERS and
NELSON COUNTY CITIZENS ADVOCATING
RESPONSIBLE EDUCATION, INC.**

PLAINTIFFS

VS.

VERIFIED COMPLAINT

NELSON COUNTY BOARD OF EDUCATION

Please serve at: Diane Breeding, Chairperson
113 Cross Creek Drive
Cox's Creek, KY 40013

WES BRADLEY, SUPERINTENDENT

Please serve at: Central Office
288 Wildcat Lane
Bardstown, KY 40004

DIANE BERRY,

Please serve at: 2753 Poplar Flat Road
Bardstown, KY 40004

TRACY BOWLING,

Please serve at: 2065 Clear Creek Drive
Boston, KY 40107

DIANE BREEDING

Please serve at: 113 Cross Creek Drive
Cox's Creek, KY 40013

JEFF DICKERSON

Please serve at: 1707 Howardstown Road
New Haven, KY 40051

DAMON JACKY

Please serve at: 6725 Bloomfield Road
Bardstown, KY 40004

in their roles as members of the NELSON COUNTY BOARD OF EDUCATION
and

NELSON COUNTY SCHOOL DISTRICT FINANCE CORPORATION

Please serve: Amy Owens, Registered Agent
288 Wildcat Lane
Bardstown, KY 40004

DEFENDANTS

Plaintiffs, by counsel, and for their Verified Complaint, state and allege as follows:

PARTIES

1. Plaintiffs, John David Seay, Amanda Rogers Deaton, Christopher Michael Dudgeon, Daniel Greenwell, Debra Bohachevsky, and Susan Santa Cruz-Rogers are citizens, property owners, and taxpayers residing in Nelson County, Kentucky.

2. Plaintiff, Nelson County Citizens Advocating Responsible Education, Inc., is a non-profit corporation organized and existing under the laws of the Commonwealth of Kentucky. Its members own property in Nelson County, Kentucky. Said corporation has the right to sue or be sued in the courts of the Commonwealth of Kentucky.

3. Defendant, Nelson County Board of Education (the "Board"), is a school district organized and existing under the laws of the Commonwealth of Kentucky. The Board can be served through its Chairperson, Diane Breeding at 113 Cross Creek Drive, Cox's Creek, KY 40013.

4. Defendant Wes Bradley is the Superintendent of Nelson County Schools (the "Superintendent") and can be served at 288 Wildcat Lane, Bardstown, KY 40004.

5. Defendants Jeff Dickerson, Diane Berry, Tracy Bowling, Diane Breeding, and Damon Jackey are elected members of the Nelson County Board of Education and are being sued in their official capacity as members of the board. Hereinafter, they will be collectively referred to as the "Board Defendants" in conjunction with Superintendent Wes Bradley, the Nelson County Board of Education, and the Nelson County School District Finance Corporation.

6. Defendant Jeff Dickerson, in his official capacity as a member of the Nelson County Board of Education, can be served at 1707 Howardstown Road, New Haven, Kentucky 40051.

7. Defendant Diane Berry, in her official capacity as a member of the Nelson County Board of Education, can be served at 2753 Poplar Flat Road, Bardstown, Kentucky 40004.

8. Defendant Tracy Bowling, in her official capacity as a member of the Nelson County Board of Education, can be served at 2065 Clear Creek Drive, Boston, Kentucky 40107.

9. Defendant Diane Breeding, in her official capacity as a member of the Nelson County Board of Education, can be served at 113 Cross Creek Drive, Cox's Creek, Kentucky 40013.

10. Defendant Damon Jackey, in his official capacity as a member of the Nelson County Board of Education, can be served at 6725 Bloomfield Road, Bardstown, Kentucky 40004.

11. Defendant Nelson County School District Finance Corporation is a non-profit corporation formed under the laws of the Commonwealth of Kentucky and summons may be served to Amy Owens, Registered Agent, 228 Wildcat Lane, Bardstown, Kentucky 40004. The Nelson County School District Finance Corporation may have an interest in the outcome of this litigation as the school property may revert to the Nelson County Board of Education if not used as a school and it should be made a party hereto.

JURISDICTION AND VENUE

12. Jurisdiction is conferred on this court over the subject matter of this litigation pursuant to Kentucky Revised Statutes because the acts complained of, and the activity to be enjoined, occurred and lie in Nelson County, Kentucky.

13. Venue is proper in this court because the transactions out of which the Plaintiffs' cause of action arose concern middle school children who reside and attend school in Nelson County, Kentucky.

ALLEGATIONS COMMON TO ALL CLAIMS

14. Plaintiffs incorporate and reallege paragraphs 1-13 as if set forth fully herein.

15. Bloomfield Middle School is a public school operated by the Board pursuant to KRS 160.290.

16. Old Kentucky Home Middle School is a public school operated by the Board pursuant to KRS 160.290.

17. New Haven School is a K-8 public school operated by the Board pursuant to KRS 160.290.

18. Boston School is a K-8 public school operated by the Board pursuant to KRS 160.290.

19. "A school district shall develop a local District Facilities Plan once every four (4) years in accordance with the schedule set by the Commissioner of Education." 702 Ky. Admin. Regs. 4:180 Implementation guidelines - Kentucky School Facilities Planning Manual (the "Manual").

20. Before a local board of education may use any of its capital construction funds and/or issue bonds to undertake any major construction project, the project must be included in an approved district facilities plan (“DFP”).

21. “The (DFP) is the mechanism for accessing funds that are restricted for school capital construction and major renovation.”

22. The DFP is used in the calculation of ‘Needs Based’ funding and also to allow use of the remaining restricted funds.” Manual, Facilities Planning Overview, page 3.

23. “A District Facilities Plan, and requested amendments thereto, shall be developed in accordance with the standards and hearing procedures contained in the 'Kentucky School Facilities Planning Manual,' June 2008." 702 Ky. Admin. Regs. 4:180, Section 2.

24. To adopt a DFP, a local board of education must form a local planning committee (“LPC”) pursuant to 702 KAR 4:180.

25. In Nelson County, the LPC is an advisory committee to the Board consisting of 20 members including parents, teachers, building administrators, facilities directors, central office staff, a local board member, a local government building, code enforcement or planning official, three (3) business/community leader representatives and the school Superintendent, who is a non-voting member.

26. It is the duty of the LPC, among other things, to draft a proposed DFP to send to the local board of education for review and approval.

27. The authority and duties of an LPC are established and governed by the Manual. (Since the Manual contains over 70 pages, plaintiffs do not attach it as a

complaint exhibit. The Manual can be found online by copying and pasting the following URL into a functioning internet browser.)

<https://education.ky.gov/districts/fac/Documents/Facilities%20Planning%202008.pdf>

28. The Kentucky Department of Education (“KDE”) must review, and the Kentucky Board of Education (“KBE”) must approve, each DFP for each of Kentucky’s local boards of education.

29. In order to fulfill its statutory duties, the Board formed an LPC in 2019, consisting of members as shown on the Complaint Exhibit A.

30. Based upon the LPC’s draft DFP, the Board adopted a DFP in 2019 that was reviewed by KDE and approved KBE.

31. The 2019 plan was a four (4) year plan expiring in 2023.

32. The 2019 plan did not include closure of any local middle schools or the relocation of any middle school grades to county high school buildings in Bardstown. Complaint Exhibit B.

33. According to information and belief, sometime during 2020 or early 2021, the Superintendent developed an idea for a plan to move all county middle school children to the county high school buildings in Bardstown.

34. The Superintendent’s plan involved major changes to existing facilities and major new construction.

35. The Superintendent’s plan also included the closure of Bloomfield Middle School, the closure of Old Kentucky Home Middle School, while repurposing the building for other purposes, and shifting middle school students at Boston School and

New Haven School and the to-be-closed middle schools to county high school buildings in Bardstown.

36. The Superintendent directed the Board's chief financial officer, Amy Owens, to investigate school closure procedures. Complaint Exhibit C.

37. The Board lacked authority to implement the Superintendent's plan under the existing DFP.

38. The Board could only gain authority to implement the Superintendent's plan by amending its existing DFP or waiting until its existing DFP expired in 2023 at which time it could draft and obtain approval of a new DFP.

39. The Manual provides that if a local board of education wishes to request an amendment to its DFP, it may do so under the following circumstances: 1) a major change in enrollment; 2) a major change in curriculum; 3) a major disaster; or, 4) an unforeseen occurrence. Manual. Section 502.2, page 67.

40. The Manual further defines the term "Amendment" as meaning "changes in the District Facilities Plan that are undertaken during the four (4) year cycle. The local board of education may request an amendment to its DFP to accommodate major enrollment changes, major curriculum changes, major disaster or unforeseen occurrences." Manual, Definitions, page 5.

41. At a special called meeting on February 23, 2021, the Board voted unanimously to request KDE to grant it permission to reconvene its LPC to amend its existing local DFP due to "a significant increase in bonding capacity and the need to address our district priorities." Complaint Exhibit D, page 4 of 5, Section VI. C.

42. While plaintiffs acknowledge KDE granted the Board permission to amend its DFP, KDE improvidently granted that permission because the reasons the Board stated as grounds for amending its DFP did not fulfill the requirements of Manual, Section 502.2, page 67, and Manual, Definitions, page 5.

43. Following approval by KDE, the board shall reconvene its existing LPC, apprise the members of the existing LPC of the need for an amendment and provide up-to-date district information for consideration. Manual, Section 502.5 page 67.

44. Since any amendment to an existing DFP would necessarily apply to a term less than the full four (4) year term of a regularly adopted DFP, and since members of the existing LPC would draft an amended plan, and since members of the existing LPC would presumably be familiar with the existing plan and the LPC planning process, the Manual provides for an expedited process. The Manual requires only two (2) LPC meetings and forums to amend a DFP. The LPC may approve a draft DFP at its first meeting. Manual, Section 502.5, page 67.

45. Contrary to the Manual provisions requiring reassembly of the existing LPC members, the Board did not reconvene its existing LPC to draft an amended DFP.

46. Based upon information and belief, at least one (1) member of the existing LPC was willing to continue to serve on the LPC as it considered whether it should amend its existing DFP.

47. The Board has never publicly disclosed any written resignations by members of the existing LPC from serving on the LPC considering the amendment to the existing LPC.

48. Instead, the Board formed a new LPC (the “New LPC”) consisting entirely of members who were not members of the existing LPC and who would not possess the same experience and familiarity with the existing DFP or with the LPC planning process as members of the existing LPC, thereby defeating the Manual’s intent allowing an expedited amendment process.

49. While plaintiffs acknowledge KDE approved the Board’s LPC member selection process, plaintiffs allege the Board nonetheless acted contrary to the Manual by selecting two (2) LPC members who resided outside the Board’s district when other eligible residents were available to serve. Manual, Section 101.1, page 16.

50. While plaintiffs acknowledge KDE approved the Board’s LPC member selection process, and based upon information and belief, plaintiffs allege the Superintendent contacted at least (2) persons outside the advertising process to apply for LPC membership as business/community leader representatives and who were persons the Superintendent believed would support his plan.

51. Plaintiffs specifically allege, based on information and belief, one (1) of the persons the Superintendent contacted outside the advertising process was LPC member Dustan McCoy, the father of Attorney D. Chad McCoy.

52. The Superintendent used Attorney D. Chad McCoy as a reference when the Superintendent applied for the open Superintendent’s position for the Nelson County Schools.

53. Plaintiffs specifically allege, based on information and belief, one of the persons the Superintendent contacted outside the advertising process was LPC member

Rebekkah McGuire-Dye. Rebekkah Dye-McGuire was a former member of the Board as recently as 2020.

54. By contacting persons about serving as business/community leader representatives outside the advertising process, the Superintendent acted contrary to the Manual provisions requiring the Board to advertise for business/community leader representative nominees from whom the Board would select the representatives.

55. Only in the event the board receives no nominations shall the board select the representatives. Manual, Section 101.7, page 17.

56. Based upon information and belief, and subject to what discovery may reveal, the Board Defendants did not follow other Manual requirements for selecting members to serve on the New LPC.

57. The New LPC conducted its first meeting and public forum on October 15, 2021.

58. The Manual requires KDE to conduct an orientation at an LPC's first meeting. The Manual defines the orientation meeting to be "conducted by KDE staff to layout the procedures and process for the LPC and to discuss research developed by KDE staff and to outline the roles and responsibilities of those involved in the DFP development. Manual, Definitions, page 8.

59. The Board did not require KDE to conduct an orientation so that the New LPC could "discuss research developed by KDE staff" or to otherwise comply with the orientation process.

60. The Board allowed KDE to shirk its duties and to present information by a prerecorded video that did not allow the New LPC members to discuss any matters with KDE staff or to ask questions.

61. The Board acted contrary to Manual requirements with respect to the LPC meeting process when the Superintendent acted as a de facto chairperson after the New LPC elected its chairperson and vice chairperson. Manual, Section 101.1, page 16.

62. The Board acted contrary to Manual requirements with respect to the LPC meeting process when the Superintendent set agendas and times and dates of the meetings, required the New LPC members to sit in assigned seats and spoke whenever he wished to speak without asking the chairperson for recognitions to speak. According to the Manual, these are authorities reserved to the LPC Chairperson. Manual, Section 103.1, page 22.

63. The Board refused to hire or otherwise secure a qualified and unbiased facilitator or trainer to be responsible for keeping the New LPC focused and to provide the order, direction, and ideas necessary to resolve any stalemates during LPC meetings. Manual, Section 103.1, page 22.

64. The Board later supplied the services of Mr. Tim Eaton to act as an LPC consultant/facilitator, a position not provided for in the Manual.

65. The Superintendent assigned Mr. Tim Eaton a seat at the same tables as the New LPC members, even though he lacked standing to do so.

66. During an LPC meeting, Mr. Tim Eaton stated the New LPC could set its own meeting dates, a material misrepresentation.

67. Only the LPC Chairperson has the authority to set LPC meeting dates.

68. During a New LPC meeting, Mr. Tim Eaton stated that after a motion to table a motion on the floor, the New LPC should vote first on the motion on the floor before voting on a motion to table, a material misrepresentation.

69. The Board's Chief Financial Officer Amy Owens used her official position and her position as an LPC member to persuade the New LPC as a whole not to request a facilitator by falsely claiming that all a facilitator would do is make sure the LPC "followed the KRS," or words to that effect, a material misrepresentation.

70. The Board's Chief Financial Officer Amy Owens used her official position and her position as an LPC member to initially state the Superintendent's plan would save approximately \$2 million, a material misrepresentation.

71. While Chief Financial Officer Amy Owens later clarified that there would be no \$2 million in savings, but that there could be a re-allocation of services in that approximate amount, Chief Financial Officer Amy Owens could provide no actual financial analysis to support her statement.

72. The Superintendent used his official position and his position as a non-voting LPC member to persuade the New LPC as a whole not to request a facilitator by incorrectly claiming that surely the New LPC could resolve any disputes on its own without the necessity of hiring a facilitator.

73. Board Defendant Tracy Bowling used her official position, her position as a New LPC member and the position of LPC vice chairperson to persuade the New LPC as a whole not to request a facilitator by incorrectly stating the cost of hiring a facilitator for \$7,500.00 was an excessive amount to spend. "Gee, that's a lot of money," she said,

ignoring that the New LPC was considering a plan with a total cost of a minimum of \$52,000,000.

74. Board Defendant Tracy Bowling used her official position, her position as a New LPC member and the position of LPC vice chairperson to state that the plan the New LPC was considering was a “four (4) year plan,” a material misrepresentation.

75. Thomas Nelson High School principal Curt Merrifield, an employee of the Board, used his official position and his position as an LPC member to persuade the New LPC as a whole not to request a facilitator by incorrectly claiming that “we’ve been talking about this for six (6) months, and it’s time to move on,” (or words to that effect), a material misrepresentation.

76. The Superintendent scheduled the New LPC meetings one (1) week apart (with the exception of the week of Thanksgiving), which is an insufficient interval for an LPC consisting of an entirely new membership to study and thoughtfully consider a DFP with a total cost of a minimum of \$52 million.

77. The New LPC conducted meetings on October 20, 2021; October 27, 2021; November 3, 2021; November 10, 2021; November 17, 2021; and December 1, 2021.

78. The Superintendent imposed on the New LPC the false arrangement that its chairperson and vice chairperson had co-equal authority.

79. The Board and Superintendent improperly conducted public forums required by the Manual “to gather information during the development of the proposed [DFP],” and allowing for “public input and discussion during the development of the [DFP].”

80. The Board and Superintendent improperly conducted LPC public forums required by the Manual by holding public forums after the New LPC meetings thereby providing an insufficient opportunity for the New LPC to consider public input and discuss with the public the public opinions about the proposed plan it was to consider.

81. The Board and Superintendent improperly conducted public forums required by the Manual by arbitrarily imposing time limits on the amount of time it permitted members of the public and groups to express viewpoints about the proposed plan.

82. The Board and Superintendent failed to conduct adequate transportation studies. Specifically, whether one-way transportation allowing for a maximum of a 45-minute bus ride for 75% of students in grades P-5/6 and the maximum of a 60-minute bus ride for 75% of the students in grades 6-12. Manual, Definitions, page 8.

83. The Board and Superintendent failed to adequately consider alternative plans which would permit middle schools to remain open and not requiring all middle school students to be transported to county high school buildings.

84. The Board and Superintendent violated the Kentucky's Open Meetings Act in at least one (1) meeting by conducting "small group breakout sessions," during which time spectators could not hear what the New LPC members were saying.

85. The Board and Superintendent failed to obtain and/or consider sufficient and timely architectural studies and surveys of the viability of maintaining existing schools as educational facilities and not requiring all middle school students to be transported to county high school buildings.

86. The Board and Superintendent failed to consider the impact of the closure of schools on the students and communities the schools serve.

87. The Board and Superintendent failed to consider the recently adopted “school choice” law that allows parents to enroll children in any school district in the county or state, thereby making projections relating to school populations difficult to impossible to ascertain.

88. The Board and Superintendent did not consider the impact of the reduction of student populations due to parents homeschooling children or enrolling children in private schools.

89. On December 1, 2021, the New LPC voted 14 to 3 to send a draft DFP to the Board.

90. The draft DFP the LPC sent to the Board included the following actions:

- A. Closing Bloomfield Middle School.
- B. Closing Old Kentucky Home Middle School, repurposing the building for other educational purposes.
- C. Closing middle school grades six through eight at Boston School.
- D. Closing middle school grades six through eight at New Haven school.
- E. Sending all middle school children to the county high school buildings in Bardstown.
- F. Placing middle school students in county high school buildings without known separation plans.
- G. Reducing significantly the size of the Nelson County High School auditorium.

H. Requiring much longer bus rides for middle school students who do not reside in close proximity to county high school buildings.

I. Spending Kentucky taxpayer money in a KDE estimated amount of \$52 million if the total plan is completed.

J. In the alternative, spending Kentucky taxpayer money in an amount of up to \$80 million due to current actual construction costs and current inflation rates.

K. Closing the Bloomfield Middle School building and eventually disposing of it for a value much less than its value for school purposes.

91. That by approving the draft DFP the Board also failed to adequately consider the following:

A. An unbiased fact-based written evaluation of the extent to which an equitable educational opportunity is not now already being provided in existing schools.

B. The harm caused to students by abandoning the existing community support students had in local communities

C. The reduction in property values to properties around closed middle schools.

D. The worsening of already congested traffic on Bloomfield Road and KY 245 corridors.

E. The inequity to the New Haven community of failing to make sufficient improvements to New Haven School, thus extending the Board's decades-long broken promise to bring decent school facilities to New Haven.

92. On December 3, 2021, the Board approved the New LPC's draft plan by a vote of 4-1, and scheduled the public hearing required by the manual on Monday, December 20, 2021. Board member Damon Jackey voted to approve the plan.

93. Board member Damon Jackey is a KDE employee. While plaintiffs acknowledge KDE employment does not disqualify member Jackey due to KRS provisions relating to incompatibility of offices or statutory conflicts of interest, plaintiffs allege it is a common law conflict of interest for a board member who is employed by KDE to participate as a voting board member on a matter over which his employer and KBE have approving authority.

94. In setting the public hearing date for December 20, 2021, the Board set a date and time for the public hearing when the Board knew many persons would not be available to attend due to holiday travel plans.

95. When plaintiff Debra Bohachevsky requested the Superintendent set another date for the public hearing because so many people would not be available to attend on December 20, 2021, including her, Superintendent stated the plaintiff Debra Bohachevsky had already had several opportunities to speak, ignoring the fact that statements at the public hearing were to be directed to KBE, which has ultimate approval of the DFP, the previous statements by plaintiff Bohachevsky being directed to the Board or to the New LPC, not to KBE.

96. With respect to the amount of time the Board should allow speakers to make public comments, the materials on KDE's website state, "Persons wishing to speak shall be given adequate time but should not be allowed to dominate others in the hearing." Complaint Exhibit E, page 2 of 2.

97. The board set an arbitrary and insufficient time limit of three (3) minutes for speakers appearing in person and allowed written statements to be read for only (3) minutes before the reader was required to stop reading the statement into the record.

98. That just before the public hearing was called to order, the Superintendent and his assistant Carla McKay could be heard discussing what to do with written statements that could not be read within the three (3) minutes allowed for statements, and the Superintendent could be heard to say, "Just throw them out," or words to that effect.

99. The hearing officer required those appearing in person at the public hearing to stop speaking after three (3) minutes and the Board employees reading written statements submitted electronically stopped reading statements after three (3) minutes.

100. That 22 of the 23 statements, both written and in person, were not in favor of the draft DFP.

101. The only statement in favor of the draft DFP was purportedly submitted by Nancy Gregory, 268 Quarry Loop, New Haven, Kentucky.

102. No one by the name of Nancy Gregory lives at 268 Quarry Loop, New Haven, Kentucky.

103. The day after the public hearing, December 21, 2021, the Board held a specially called meeting and voted to send the draft DFP to KBE for final approval.

104. On January 16, 2022, the Board voted to advertise a notice in The Kentucky Standard that it would receive letters of interest from qualified architectural firms and construction managers for upcoming projects, to be submitted no later than February 8, 2022. Complaint Exhibit F.

105. The Board began asking for letters of interest in construction projects that cannot be started until it obtains final approval from the KBE.

106. The draft plan is on the KBE agenda to be considered at a meeting scheduled February 9, 2022.

107. Based upon information and belief, a large majority of Nelson County citizens do not support the draft DFP.

108. Defendants' actions have resulted or will result, in an immediate and irreparable harm to Plaintiffs in violation of applicable laws and regulations in that students currently attending the above referenced schools will be assigned to other schools.

109. Defendants' actions are arbitrary, capricious, and in violation of Kentucky Revised Statutes, Kentucky Administrative Regulations, and any other laws applicable to the exercise of their powers.

110. Defendants' actions are not taken in good faith and do not rest upon sound, just and reasonable basis and without due regard to the public interest and the consequences upon the children affected.

COUNT I
BREACH OF DUTIES OF CARE AND LOYALTY

111. The allegations contained in Paragraphs 1-110 hereinabove are incorporated by reference.

112. The Board Defendants owed a duty of care to the individual Plaintiffs, and a duty of loyalty to the Plaintiffs, as well as all Nelson County taxpayers, pursuant to all applicable laws.

113. The Board Defendants breached their duties of care and loyalty to the plaintiffs.

114. The breach of duty by the Board Defendants directly and proximately caused the Plaintiffs to sustain damages in excess of the jurisdictional limit of this court.

COUNT II
NEGLIGENT MISREPRESENTATION

115. The allegations contained in Paragraph 1-114 hereinabove are incorporated by reference.

116. The Board Defendants had a duty to use reasonable care to protect the citizens and school children of Nelson County from exposure to harm and failed to use reasonable care and negligently planned to close the above referenced schools.

117. As a direct and proximate result of negligent misrepresentations of material facts, the Plaintiffs have been damaged in an amount in excess of the jurisdictional limit of this court.

COUNT III
BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

118. The allegations contained in Paragraph 1-117 hereinabove are incorporated by reference.

119. The Board Defendants carelessly, negligently, and/or recklessly breached their duties of good faith and fair dealing, by, without limitation, proceeding with amendment to the DFP, to expose citizens and taxpayers to financial obligations without obtaining appropriate authorization by the KDE and KBE, without performing usual and customary due diligence and/or by their other acts and omissions as alleged herein and/or as may be established by the evidence.

120. As a direct and proximate results of said breaches of good faith and fair dealing, plaintiffs have been damaged in an amount in excess of the jurisdictional limit of this Court.

COUNT IV
DECLARATORY JUDGMENT

121. The allegations contained in Paragraphs 1-120 hereinabove are incorporated by reference.

122. Plaintiffs seek a declaratory judgment holding Defendants' actions in amending the DFP are arbitrary, capricious, and unlawful due to their failure to adhere to the procedure set forth in the Manual and that any implementation of the DFP is unlawful until such time the proper procedures to amend the DFP have been implemented.

COUNT V
VIOLATION OF DISTRICT FACILITIES PLAN ("DFP")

123. The allegations contained in Paragraph 1-122 hereinabove are incorporated by reference.

124. Pursuant to the June 2008 edition of the Kentucky School Facilities Planning Manual, as adopted by 702 KAR 4:180, a DFP exists for the Nelson County Public Schools.

125. A DFP may be amended after initial adoption and approval by the Kentucky Department of Education.

126. The Board did not follow the Manual in modifying the previous DFP per the procedure outlined in Section 502.

127. The DFP shall remain in effect until any changes have been approved by KBE and failure to properly modify the current DFP constitutes arbitrary, capricious, and unlawful actions on the part of the Board in violation of the DFP.
Caption for open meeting violations.

COUNT VI
VIOLATION OF OPEN MEETINGS ACT

128. The allegations contained in Paragraph 1-127 hereinabove are incorporated by reference.

129. The Commonwealth of Kentucky has adopted open meetings requirements, which can be found in KRS Chapter 61.

130. The Board did not meet specific requirements for exceptions to the Open Meetings found in KRS 61.810 and has violated the Open Meetings Act as well as the Manual in its meetings with respect to the acts about which plaintiffs complain.

131. Decisions involving the closure of the above referenced schools were made in private in violation of the Kentucky Open Meetings Act and failure to comply with the requirements of the Kentucky Open Meetings Act constitutes arbitrary, capricious, and unlawful actions on the part of the Board in violation of the KRS Chapter 61.

COUNT VII
FAILURE TO ALLOW SUFFICIENT LPC AND
PUBLIC HEARING PUBLIC COMMENT

132. The allegations contained in Paragraphs 1-131 hereinabove are incorporated by reference.

133. The Board did not allow sufficient time during LPC meetings and the public hearing for plaintiffs and other members of the public to make comments about the closure of the above referenced schools and grades.

134. Failure to allow sufficient time for comments during the LPC and public hearing and to consider comment from the affected public constitutes arbitrary, capricious, and unlawful actions on the part of the Board.

COUNT VIII
INJUNCTIVE RELIEF

135. The allegations contained in Paragraphs 1-134 hereinabove are incorporated by reference.

136. Plaintiffs herein will suffer irrevocable and irreparable harm if the Defendants permanently close Bloomfield Middle, Old Kentucky Home Middle and Boston School and New Haven School grades six through eight.

137. Property owners, including plaintiffs, in the schools' communities will face a reduction in property values because there is no longer a "local" school for children to attend making the community less marketable to families with children.

138. Plaintiffs' rights are being or will be violated by the Board Defendants leaving the plaintiffs to suffer immediate and irreparable injury, loss, or damage pending a final judgment in this action.

WHEREFORE, the plaintiffs, pray and demand as follows, to wit:

A. That this court enter orders for a temporary, as well as a permanent restraining order and injunction, prohibiting the closure of Bloomfield Middle, Old Kentucky Home Middle and grades sixth through eighth of Boston School and New Haven School, due to the arbitrary, capricious, and unlawful actions of the Defendants.

B. That Defendants be forbidden from implementing the illegal merger plan.

C. That Defendants be forbidden from closing Bloomfield Middle, Old Kentucky Home Middle and grades six through eight of Boston School and New Haven Schools until such time as they have complied with applicable statutes and regulations relating to the closure of a public schools and grades.

D. That the court require Defendants to conduct the appropriate studies, surveys, and investigations to determine the cost effectiveness and appropriateness of maintaining Bloomfield Middle, Old Kentucky Home Middle and grades six through eight of Boston School and New Haven School.

E. That Defendants be required to obtain an unbiased evaluation of the state of the facilities of Bloomfield Middle, Old Kentucky Home Middle and grades six through eight of Boston School and New Haven School from an uninterested party.

F. That Defendants be required to make public any and all discussions about the closure of Bloomfield Middle, Old Kentucky Home Middle and grades six through eight of Boston School and New Haven School.

G. That the Board be required and ordered to follow the requirements under 702 KAR 4:180 and reconvene the existing LPC.

H. That Defendants be required to comply with 702 KAR 4:180, specifically Section 503, in amending the current DFP.


I. That plaintiffs recover their costs herein expended.

J. For a trial by jury on all issues so triable.

K. For any other relief, whether sounding in law or equity, to which plaintiffs may appear entitled.

/s/ Jeremy S. Aldridge
JEREMY S. ALDRIDGE
Counsel for Plaintiffs
Aldridge & Birdwhistell Law Firm, PSC
2411 Ring Road, Suite 102
Elizabethtown, KY 42701
(270) 765-2000
jeremy@ablaw-firm.com

We hereby affirm that the foregoing statements are true and accurate to the best of our knowledge and belief.


JOHN DAVID SEAY, individually and as
President of Nelson County Citizens
Advocating Responsible Education, Inc.


CHRISTOPHER MICHAEL DUDGEON


AMANDA ROGERS DEATON



DANIEL GREENWELL


DEBRA BOHACHEVSKY


SUSAN SANTA CRUZ-ROGERS


COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

SWORN TO, SUBSCRIBED AND ACKNOWLEDGED before me this 6th day
of February, 2022, by John David Seay, individually and as President of Nelson County
Citizens Advocating Responsible Education, Inc.


NOTARY PUBLIC
Notary ID#: 612663
My Commission expires: 11-21-22

COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

SWORN TO, SUBSCRIBED AND ACKNOWLEDGED before me this 6 day
of February, 2022, by Amanda Rogers Deaton.


NOTARY PUBLIC
Notary ID#: 612663
My Commission expires: 11-21-22

COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

SWORN TO, SUBSCRIBED AND ACKNOWLEDGED before me this 6th day
of February, 2022, by Debra Bohachevsky.

Alicia Tangle
NOTARY PUBLIC
Notary ID#: 612663
My Commission expires: 11-21-22

COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

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Notary ID#: 612663
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COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

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Pamela Pollett
NOTARY PUBLIC
Notary ID#: 630905
My Commission expires: 9-5-23

COMMONWEALTH OF KENTUCKY
COUNTY OF NELSON

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Alicia Tangle
NOTARY PUBLIC
Notary ID#: 612663
My Commission expires: 11-21-22