LINCON COUNTY BOARD OF EDUCATION
LINCOLN COUNTY MIDDLE SCHOOL
APPEAL OF SITE BASED DECISION MAKING COUNCIL

WRITTEN FINDINGS

The Lincoln County Board of Education, hereinafter “Board” held a Special Called Meeting on Thursday, June 11, 2019 to review the appeal of Anthony Potts, hereinafter “Mr. Potts”, regarding the decision of the Lincoln County Middle School Site Based Decision Making Council, hereinafter “SBDM”, to use the Summit Learning Platform at the Lincoln County Middle School. The Board reviewed this matter pursuant to the Lincoln County Board of Education policy 02.42411.

The SBDM voted 3-2 in favor of using the Summit Learning Platform during the SBDM meeting on March 19, 2019. Mr. Potts filed a timely appeal dated March 28, 2019 to the SBDM decision. Billy Harris, as Chairman of the SBDM, the Principal of Lincoln County Middle School, hereinafter Mr. Harris, provided Mr. Potts a written response to the appeal dated April 12, 2019, denying the appeal. Mr. Potts, on May 6, 2019 appealed to the SBMD denial of his appeal to the Superintendent of the Lincoln County Board of Education. The Superintendent provided a written denial of Mr. Potts appeal dated May 14, 2019. Mr. Potts requested an appeal to the Board, which was heard on Thursday, June 11, 2019.

The appeal to the Board consisted of three (3) issues; (1) privacy of student data, (2) results of the pilot program of the Summit Learning Platform, and (3) whether the SBDM followed the appeal procedures.

During the Board’s review of the appeal Mr. Potts was provided time to address the Board and state his concerns of the SBDM decision to implement the Summit
Learning Platform. Mr. Potts provided examples of other school districts in Kentucky and other states use of the Summit Learning Platform and his concern that there is not sufficient data to support the effectiveness and the lack positive increase in test scores of these districts. Mr. Potts stated his concerns that student information in the Summit Learning Platform is shared with third parties and that FERPA and KFERPA provides gaps for this information to be shared. Mr. Potts also stated his concerns that the appeal process of the SBDM was not followed correctly. Mr. Potts stated the letter he received denying his appeal was dated April 12, 2019 and SBDM meeting to address his appeal was held on April 16, 2019.

Mr. Harris and Rachel Yaden, addressed the Board on behalf of the SBDM. Mr. Harris and Mrs. Yaden addressed how the learning platform is utilized and the benefits of the platform. Mrs. Yaden explained that the student information was the same information that was kept electronically was the same information that is stored for all other programs used by the District, and that the school had the ability to decide what information to share or not share. The SBDM felt that the pilot program of the Summit Learning Platform did show benefits and that the program would lead to academic success. Mr. Harris stated that he provided the written response of the SBDM to Mr. Potts by letter dated April 12, 2019 and that the SBDM did not hold the meeting for public discussion on the appeal until April 16, 2019. The SBDM did not hold a special called meeting prior to the April 12, 2019 response being sent to Mr. Potts, however Mr. Harris stated he had spoken with the SBDM members regarding the appeal and the response. The appeal was discussed in the April 16, 2019 meeting and no members voices opposition to the response.
In reviewing the appeal the Board, pursuant to Policy 02.42411, is to initially make the following determination; (1) Does the action fall within the statutory authority of the Council or (2) Does the action fall within the authority of the Board. In reviewing the statute and case law on this issue:

KRS 160.345(2)(g) provides, The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

KRS 160.345(3)(5)(i) states, The school council shall adopt a policy to be implemented by the principal in the following additional areas: (1) Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19); (6) Planning and resolution of issues regarding instructional practices.

The Supreme Court of Kentucky has addressed the authority of Site Based Decision Making Councils and school boards in *Board of Education of Boone County v Bushee* stating,

"The local boards are responsible for the administrative functions of allocating funding, managing school property, appointing the superintendent and fixing compensation of the employees. The councils are responsible for the site based issues, including, but not limited to, determining curriculum, planning instructional practices, selecting and implementing discipline techniques, determining the composition of the staff at the school, choosing textbooks and instructional materials". *Board of Education of Boone County v Bushee*, 889 S.W.2d 809, 816 (1994).

In reviewing these statues and caselaw the Board finds that the decision as to what learning platform is to be used at the school is within the authority of the SBDM and not the Board.
With the decision of the learning platform being a decision within the authority of the Council the Board pursuant to Policy 02.42411 the Board will determine whether the Council decision to implement the Summit Learning Platform; (1) Raises liability and/or health and safety concerns, (2) Exceed budgetary limitations, (3) Conflicts with contractual obligations, and/or is (4) Unlawful under state or federal laws.

The Board finds that there was not sufficient evidence that the SBDM decision raises liability and/or health and safety concerns, exceeds budgetary limitations, or conflicts with contractual obligations. The Board does have concerns that the SBDM may not have fully complied with the Open Meetings Act with evidence showing that the letter denying the original appeal was dated April 12, 2019, a special called meeting of the SBDM not occurring prior to April 12, 2019 and the SBDM meeting in which the appeal was discussed was held on April 16, 2019, after the written response was dated.

The Board affirms the vote of the SBDM for the implementation of the Summit Learning Platform as voted on in the March 19, 2019 meeting, however due to the concerns raised in the appeal and as stated in these findings that the appeal process and possibly the Open Meetings Act were not properly followed the Board, pursuant to Policy 02.42411 is referring this matter back to the Lincoln County Middle School SBDM Council to schedule a meeting for the consideration of Mr. Potts appeal.

All board members of the Lincoln County Board of Education voted in favor of these findings.

Done this 20th day of June, 2019.

[Signature]
TOM BLAKESHIP, CHAIRMAN
LINCOLN COUNTY BOARD OF EDUCATION