

Opioid Abatement Commission


Special Meeting Agenda


September 15, 2023

- I. Call to Order
- II. Roll Call
- III. Introductions
- IV. Presentation on National Opioid Litigation and Role of Opioid Abatement Commission
Susan Speckert, Commissioner of Law
Brittany Griffin Smith, Attorney Senior, LFUCG Department of Law
- V. Adoption of meeting schedule for FY2024
- VI. By-laws Discussion and Adoption
- VII. Adjournment

OPIOID ABATEMENT COMMISSISON


September 15, 2023
Presented by Commissioner Susan Speckert and
Brittany Griffin Smith, Attorney Sr.,
Department of Law

 **LEXINGTON**

Opioid Abatement Commission 


National Opioid Litigation

- In 2017, LFUCG joined with over 30,000 municipal plaintiffs around the country in a lawsuit against the distributors and manufacturers of opioids.
- Lawsuits proceeding along three tracks:
 - Trials
 - Settlements
 - Bankruptcies

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2021 House Bill 427/MOU with AG Cameron

- Established framework for how funds received pursuant to the National Opioid Litigation will be distributed between the state and Kentucky municipalities.
 - 50-50% split.
 - LFUCG receives approximately 6.26% of the 50% distributed to municipalities. Percentage based on a formula developed by experts as part of the litigation.
 - State Opioid Abatement Trust Fund overseen by the Kentucky Opioid Abatement Advisory Committee.
 - Outlines permitted uses. Very broad.
 - Generally, reimburse prior expenses or fund projects related to opioid use disorder or any co-occurring substance use disorder or mental health issues in accordance with state law. Emphasis on abatement.

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Eligible Uses (KRS 15.291)

- Intervention, treatment and recovery services
- Detoxification
- Access to opioid-abatement-related housing
- Transportation to treatment or recovery programs
- Employment training/educational services
- Creating/supporting call centers
- Supporting crisis stabilization centers
- Oversight of opioid treatment programs
- Scholarships/support for behavioral health
- Training for health care providers
- Preventing over-prescribing
- Prescription drug monitoring
- Education of law enforcement/first responders
- Opioid related emergency response services
- Mental health trauma
- Engaging nonprofits
- Recovery for pregnant women or women of childbearing age, and training for healthcare providers working with these women
- Neonatal Abstinence Syndrome prevention/treatment/education
- Wrap-around services
- Supporting housing
- Public education
- Drug-take back disposal
- Costs of administering opioid antagonist
- Pre-trial services that connect individuals to treatment/services
- Treatment and recovery courts
- Treatment/recovery to inmates or those recently leaving jail or on probation/parole
- But state law notes that this list is not exhaustive

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Reporting Requirements

- Annual certification that funds used consistent with state law.
- List of fund recipients and amounts.
- Description of the use of the funds.

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Funds

- One-time.
- Kentucky Opioid Abatement Advisory Committee Funds.



Role of Opioid Abatement Commission

- Created by Ordinance No. 022-2023.
- This Commission shall recommend uses for these funds consistent with state law.
- The recommendations should specify how the use fits within the approved uses.
- Council will have the final say on which projects to fund.
- Commission shall meet no less than quarterly, and provide reports to the Mayor or the Council upon request.
- Commission is empowered to engage with citizen groups/stakeholders/etc. to solicit feedback on the best use of these funds.



Open Meetings


"The General Assembly finds and declares that the basic policy of KRS 61.805 to 61.850 is that the formation of public policy is public business and shall not be conducted in secret and the exceptions provided for by KRS 61.810 or otherwise provided for by law shall be strictly construed."

- Statute provides that meetings of a public agency must be open to the public at all times, unless the subject of the meeting or part of the meeting falls within one or more of the exceptions found in the Act.
- To conduct business, a quorum of the Commission must be present at a meeting
 - Quorum is 7
 - Note – the Commission cannot avoid the Open Meetings Act by having a series of meetings with less than a quorum of members present
- This Commission is subject to the Kentucky Open Meetings Act
 - All committees of this Commission create will also be subject to these provisions
 - Quorum will be based on the number of members of each committee



Open Meetings, continued


- A "meeting" is any/all gatherings of a public agency where:
 - A quorum of the members is present AND
 - Public business is being discussed OR action is being taken.
- Cannot hold a series of less than quorum meetings to intentionally avoid requirements of the Act.
 - The Act does not prohibit discussions between individual members where the purpose is to educate the members on specific issues.
 - The Act does not prohibit social activities.
- The Kentucky Supreme Court has explained: "Public business is not simply any discussion between two officials of the agency. Public business is the discussion of various alternatives to a given issue about which the [agency] has the option to take action."

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Open Meetings, continued


- You have the option to meet virtually, but only if:
 - All members are at separate physical locations
 - Notice is given to the public on how they may view the meeting
 - Interruptions of the video/audio broadcast will suspend the meeting
 - Members must be both SEEN and HEARD to count toward a quorum

- Meetings may not be conducted by audio only.

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Open Meetings, continued

- All meetings must be held at a specified time and place that is convenient to the public.
- Public agencies must adopt a schedule of regular meetings by official action (i.e., ordinance, order, resolution, bylaws, etc.).
- Schedule of regular meetings must be made available to the public.
- Public agencies must take minutes of every meeting and keep an accurate record of votes and action taken, including calling a meeting to order and adjourning.
 - Members may not vote by email or participate/vote by proxy.
- Minutes must be available for public inspection no later than the conclusion of the agency's next public meeting.

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Open Meetings, continued

- Any meeting that is not a regularly scheduled meeting is considered a "special meeting."
- A special meeting may be called by the presiding officer or by a majority of the members of the public agency.
- Notice requirements include an agenda. Discussions and actions at the special meeting must be limited to the items specified on the agenda.

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Ethics

- Members must follow Art. 16 Code of Ethics
- Prohibited acts include:
 - 1. Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;
 - 2. Engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgement or action in the performance of his official duties;
 - 3. Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;

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Ethics, continued

- Prohibited acts, continued:
 - 4. Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;
 - 5. Represent private interests in any action or proceeding before the governmental body by which he is employed; or
 - 6. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which he has a financial interest.

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Ethics, continued

- If you have a financial interest, directly or indirectly, in any matter that this Commission is considering, you must:
 - DISCLOSE that interest AND
 - REFRAIN from 1) participating in that discussion and 2) voting on the matter
 - Recusal is best practice
- Recusal is not the same as abstention, which some commission members could do as a practical matter, for reasons unrelated to having a conflict of interest
- If you have any concerns, feel free to contact the Department of Law before the meeting

QUESTIONS?



LEXINGTON

Opioid Abatement Commission
Proposed FY 2024 Meeting Dates

Schedule- Every 2nd Friday of the Month

Time- 10am-12pm

Location- Council Chambers, Government Center

Dates

October 13, 2023

November 17, 2023*

December 8, 2023

January 12, 2024

February 9, 2024

March 8, 2024

April 12, 2024

May 10, 2024

June 14, 2024

*Meeting date moved to 3rd Friday of November. LFUCG is closed on the 2nd Friday, November 10, in observance of Veterans Day.

**BYLAWS
FOR THE
OPIOID ABATEMENT COMMISSION**

WITNESSETH: The Opioid Abatement Commission, in order to carry out the general powers conferred upon it by Chapter 2, Article LI (“Article 51”) of the Code of Ordinances of the Lexington-Fayette Urban County Government, does hereby adopt the following by-laws to govern its proceedings.

ARTICLE I – NAME

The name of this Commission is “The Opioid Abatement Commission.”

ARTICLE II – AUTHORITY

The authority for the establishment of the Opioid Abatement Commission is set forth in Ordinance No. 22-2023, adopted March 23, 2023, and codified in Chapter 2, Article LI of the Code of Ordinances of the Lexington-Fayette Urban County Government.

ARTICLE III – POWERS AND DUTIES

As provided in Sec. 2-527 of the Code of Ordinances, the powers and duties of the Opioid Abatement Commission is charged with making recommendations on the appropriate use of proceeds received by Lexington Fayette Urban County Government in any settlement, judgement, bankruptcy, or other manner of resolution, related to or arising out of the National Opioid Litigation, or other moneys received from gifts, grants or state or federal funds. All uses of the proceeds shall be based upon criteria provided in applicable state law and the Memorandum of Understanding, entered between the Lexington-Fayette Urban County Government and the Commonwealth of Kentucky on June 25, 2021 (MOU), related to opioid use disorder or any co-occurring substance use disorder or mental health issues.

Focus areas for the Commission shall include the following four issues:

- Educating the community on substance use disorders;
- Providing broad access to all types and levels of substance use disorder treatment;
- Supporting families of those who suffer with substance use disorder; and
- Supporting recovery by increasing access to safe, affordable housing, transportation, employment assistance, and expungement services.

ARTICLE IV – MEMBERSHIP

A. Appointment: As provided in Section 2-528 of the Code of Ordinances, the Opioid Abatement Commission shall consist of thirteen (13) voting members appointed by the Mayor and subject to confirmation by the Urban County Council.

B. Term: As provided in Section 2-529 of the Code of Ordinances, all commission members shall serve four (4) years from the date of appointment, provided that the term of the initial members shall be staggered in the following manner: seven (7) members shall be appointed for four (4) years and six (6) members shall be appointed for two (2) years. Vacancies shall be filled for an unexpired term in the manner prescribed for the original appointment. Members may be appointed for two (2) consecutive terms. Members who have served two consecutive terms shall not be eligible to succeed themselves until the lapse of twelve (12) months from the end of said terms.

C. Resignation: A Commission member may resign from the Commission at any time. Such resignation shall be made in writing and shall take effect immediately. Upon the resignation of a member of the Commission, the chair shall report the vacancy to the Mayor's Office for purposes of filling the vacancy. In the event the chair resigns, the vice-chair shall report the vacancy to the Mayor's Office for purposes of filling the vacancy.

D. Removal: The Commission shall have the authority to communicate issues of attendance, performance, conflict of interest, breach of confidentiality, inefficiency, neglect of duty, malfeasance, or other non-compliance with Commission bylaws to the Mayor and the Urban County Council and to recommend the removal of a Commission member. A recommendation to remove a Commission member shall require a motion and an eight-vote majority of the Commission. The member whose removal is being considered shall not be allowed to vote. If the removal motion passes, the chair shall notify the Mayor and the Urban County Council in writing within five (5) business days. The final decision on removal shall be made by the Urban County Council.

ARTICLE V – ATTENDANCE

All members are expected to diligently attend regularly scheduled meetings of the Commission. Commission members shall give the chair advance notice (at least two (2) business days) if they are unable to attend a regularly scheduled Commission meeting. In the event of three (3) unexcused absences, staff or the chair shall notify the Mayor and the Urban County Council, and provide notice to the member by certified mail. An unexcused absence is any absence in which the chair of the Commission or Commission staff is not notified of the intended absence at least twenty-four (24) hours in advance of a regularly scheduled meeting. Repeated unexcused absences shall be grounds for removal of a member from the Commission.

ARTICLE VI – PRESIDING OFFICERS

As provided in Section 2-530 of the Code of Ordinances, the presiding officers for the Commission shall consist of a chair and vice-chair. The chair shall preside at all meetings of the Commission. The chair may call special meetings and shall transmit reports, plans and recommendations of the Commission to appropriate governing bodies. The chair shall act as the spokesperson of the Commission.

The vice-chair shall serve as chair during the temporary absence or disability of the chair and shall assume the duties of the chair if the office of chair is vacated. In the event that both the chair and vice-chair are absent from a meeting of the Commission, the chair shall designate an acting chair to preside over the meeting. Should no designation be made in advance of a meeting and both the chair and vice-chair are absent, a member may call the meeting to order and conduct the meeting with the agreement of the other members of the Commission.

The Commission may, by majority vote, also elect a secretary, who may keep records, prepare the minutes, and perform other tasks delegated by the chair. If the Commission chooses to elect a secretary, then the secretary is also eligible to serve two (2) consecutive one (1) year terms.

ARTICLE VII – MEETINGS

All meetings of the Commission shall be open to the public in a manner consistent with the Kentucky Open Meetings Act, KRS 61.805 et seq. The Commission shall adopt a meeting schedule, which sets forth the date, time, and place for its regularly scheduled meetings. Regular meetings shall be held at a time and place consistent with the annual calendar of meetings approved by the commission at its first regular meeting of the calendar year.

Special meetings may be held as necessary. Special meetings may be called by the chair of the Commission or by a majority of the voting members of the Commission pursuant to KRS 61.823. Staff for the Commission shall notify all members at least seven (7) days in advance of such meeting, if time permits; however, at a minimum, the notice required by KRS 61.823 shall be given.

The Commission shall keep minutes of all meetings and records of all proceedings, which shall include the number of votes for and against each motion and the record of the vote of each member, and these minutes shall be made available for public inspection.

ARTICLE VIII – QUORUM

Seven (7) voting members shall constitute a quorum for the transaction of business at any meeting of the Commission.

ARTICLE IX – WORKING GROUPS AND COMMITTEES

The Commission may create four (4) working groups to work on the focus areas set by these Bylaws. Each working group shall be composed of not less than five (5) members of the Commission, who shall be appointed by the Chair of the Commission. Each working group shall be chaired by a Commission member. The chair of each working group shall be selected by the Chair of the Commission and approved by the Commission as a whole. Each working group member shall serve a one (1) year term with the working group and shall be eligible for re-appointment to the working group.

Each working group shall be expected to conform its work to the following general parameters:

- Each working group shall examine the focus area under its charge and shall develop recommendations for the appropriate use of proceeds to best address issues within that area and as provided by state law and the MOU.
- Each working group shall be empowered to solicit research and community feedback specific to the focus area under its charge, for the purpose of developing recommendations.
- Each working group shall bring forward recommendations in the form of action items, which shall be forwarded to the Chair of the Commission and shall be reported to the Commission as a whole.
 - Working group reports shall be an agenda item for all regularly scheduled meetings of the Commission, but the timing of reports on proposed recommendations for action items shall be vested to the discretion of the working group, with the understanding that such reports shall be brought forward when Commission action on the item is appropriate.
 - If a working group recommendation is approved by the Commission, the recommendation shall be incorporated into the next report provided by the Commission to the Mayor and the Urban County Council.

The Chair may also appoint committees whenever he or she feels that committees may be of value to the work of the Commission.

ARTICLE X – PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert’s Rules of Order Newly Revised shall govern the Commission in all matters in which they are applicable and in which they are not inconsistent with these by-laws and any special rule of order the Commission may adopt.

ARTICLE XI – DECORUM

Every member of the Commission shall exercise decorum during discussion and debate and shall conduct himself or herself in a courteous manner toward other members of the Commission as well as external stakeholders. All members shall refrain from using unbecoming, derogatory, or abusive language, shall not interrupt when another member has the floor, and shall refrain from making personal attacks against the chair, vice chair, or other members of the Commission, or against other persons not members of the Commission.

ARTICLE XII – AMENDING BY-LAWS

These by-laws may be amended by a vote of seven (7) voting members of the Commission.

ARTICLE XIII – CONFLICTS OF INTEREST

All members of the Commission shall be subject to the Code of Ethics contained in Article 16 of the Charter of the Lexington-Fayette Urban County Government.

Any member of the Commission who has a private interest, directly or indirectly, in the outcome of any matter before the Commission shall disclose the nature of the interest and shall recuse himself from voting on the matter or participating in discussion of the matter.

Any member of the Commission who desires not to participate in any action before the commission shall abstain and such abstention shall be considered as acquiescing in the action of the majority of those who vote.

ARTICLE XIV -- STAFF

The Commission may seek assistance from staff provided by the urban county government in the fulfillment of its duties, including but not limited to: 1) preparing and keeping minutes of its meetings; 2) preparing and presenting the Commission's recommendations to the Mayor and Urban County Council; and, 3) to preparing, presenting and submitting any reports and/or certifications requested by the Mayor, the Urban County Council, the MOU, or applicable state law.

Adopted this _____ day of _____, 2023.