

AUTOFLEX FLEET, INC.,

Appellant,

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR26-11

ORDER

Appellant filed an appeal with the State Board challenging a March 16, 2026, decision of the Procurement Director for Montgomery County Public Schools (“MCPS”) denying Appellant’s bid protest and dismissing Appellant’s proposal regarding Request for Proposal (RFP) 8111.1. The Montgomery County Board of Education (“local board”) filed a motion to dismiss the appeal on the grounds that the Appellant failed to exhaust its administrative remedies. The matter has been briefed by the parties.¹ For the reasons stated herein, we dismiss the appeal for failure to exhaust administrative remedies.

The facts regarding the timeline of events and the Appellant's premature appeal are as follows. On January 28, 2026, the local board issued Request for Proposal (“RFP”) #8111.1 for the purchase and delivery of new diesel school buses for Montgomery County Public Schools (“MCPS”). (R. 1-70). The due date for receipt of responsive proposals was February 6, 2026, at 2:00 p.m. (R. 13, 84). The solicitation explicitly required all proposals to be submitted by mail, courier, or hand-delivery, and prohibited electronic submissions. (R. 13).

Appellant submitted to MCPS a document titled "Notice of Submission Under Protest." (R. 71-83). The cover letter stated that it was a proposal for RFP 8111.1 and a “formal notice of protest.” (71). On March 16, 2026, Angela McIntosh Davis, MCPS Procurement Director, issued a written decision denying the Appellant's bid protest because it was premature, Appellant lacked standing, and the protest failed to meet filing requirements. (R. 89-91). *Id.* The Director also dismissed the Appellant's proposal for failure to conform to the mandatory submission methods specified in the RFP. *Id.*

On March 19, 2026, Appellant submitted an appeal directly to the State Board and the local board to contest the Procurement Director's March 16 decision. Appellant also requested a stay of RFP 8111.1 and the evaluation of its alternative proposal.² (R. 135-212). On April 2, 2026, legal counsel for the State Board informed the Appellant that the appeal was premature. The notice specifically stated that the appeal identified a decision by a Procurement Director, not

¹ After all briefing was complete, Appellant submitted a Sur-Reply and Motion for Leave to File Sur-Reply on May 19, 2026. Consistent with COMAR 13A.01.05.04E(7), these filings are stricken. The appeal process does not permit a sur-reply after the local board’s final reply, and we find no basis to circumvent the procedures.

² Appellant was advised on February 6 and 11, 2026, that the State Board President declined to request the State Superintendent of Schools to issue a stay pursuant to COMAR 13A.01.02.01B(1).

the local board, and that Appellant could only file a State Board appeal "[o]nce the local board issues a final written decision." (R. 200-201).

On April 15, 2026, Darlene Harris, Ombudsperson for the local board, informed the Appellant that its local appeal was not ripe for review under Board Policy BLB-*Rules of Procedure in Appeals and Hearings* because it had not yet been resolved at the lower administrative levels. (R. 126). Ms. Harris stated that bid award protest decisions are appealed to the Chief Financial Officer ("CFO"), as the Superintendent's designee, and that the Appellant's information would be forwarded to the appropriate office for handling. *Id.*

On April 16, 2026, Appellant submitted an appeal to the CFO to challenge the Procurement Director's March 16 decision. (R. 123-131). On April 24, 2026, the CFO issued a written decision denying the appeal. (R. 132-134). The CFO explicitly notified the Appellant of its right to appeal the decision to the local board under Policy BLB. *Id.* The local board has received no appeal from Appellant of the CFO's April 24 decision. On April 30, 2026, the local board awarded the contract under RFP 8111.1.

To bring finality to the exhaustion issue, we docketed this appeal following Appellant's multiple filings to the State Board.

Under § 4-205(c)(3) of the Education Article, a local superintendent or their designee must first decide disputes involving local board rules and regulations and the proper administration of the school system and those decisions must be appealed to the local board of education before the matter can be appealed to the State Board. *See also* COMAR 13A.01.05.01B. Thus, a final decision of the local board is a prerequisite to a State Board appeal. Without a final written decision from the local board, there is nothing for the State Board to review.

The State Board has consistently declined to address issues that have not been initially reviewed by the local board, strictly enforcing the requirement that appellants exhaust their local administrative remedies. *See Liberty Elevator Experts, L.L.C. v. Prince George's Cnty. Bd. of Educ.*, MSBE Order No. OR 20-22 (2020) (dismissing appeal where a vendor protested a bid to the purchasing director but bypassed the chief financial officer and local board by appealing directly to the State Board).

Here, the Appellant filed its appeal with the State Board on March 19, 2026, challenging a decision by the Procurement Director. Appellant failed to obtain a final decision from the local board. The April 15 letter from the local board's Ombudsperson does not constitute a final, appealable decision of the local board as the correspondence merely advised Appellant of the proper appeal process and routed the submission to the appropriate office for review. It cannot reasonably be construed as a final agency decision.

After the protest was sent to the CFO, who subsequently issued a denial that included an explicit notice of appeal rights, Appellant failed to appeal the CFO's April 24, 2026 denial to the local board. Because Appellant failed to complete the mandatory steps of the local administrative appeal process, there is no local board decision for the State Board to review. The State Board has consistently held that dismissal is appropriate where an appellant fails to exhaust

administrative remedies or where no final local board decision exists. *See U.D. v. Charles Cnty. Bd. of Educ.*, MSBE Order No. OR25-09 (2025).³

For the reasons stated above, it is this 28th day of May, 2026, ORDERED, by the Maryland State Board of Education, that the appeal is dismissed for failure to exhaust administrative remedies. COMAR 13A.01.05.03B.

MARYLAND STATE BOARD OF EDUCATION

A handwritten signature in cursive script, reading "Joshua L. Michael", is written over a horizontal line.

Joshua L. Michael
President

³ We also find no merit to Appellant's conflict of interest argument regarding counsel for the local board based on counsel's prior representation of the school system on matters involving Appellant while working for a private law firm.