

BALTIMORE COLLEGIATE  
SCHOOL FOR BOYS,

Appellant,

v.

BALTIMORE CITY BOARD  
OF SCHOOL  
COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR26-21  
(corrected)

### ORDER

Baltimore Collegiate School for Boys (“Baltimore Collegiate”), operated by Five Smooth Stones Foundation, Inc., filed an appeal with the Maryland State Board of Education (“State Board”) challenging the January 14, 2026 decision of the Baltimore City Board of School Commissioners (“local board”) to not renew Baltimore Collegiate’s charter agreement. Appellant seeks leave to amend the appeal.

#### *Factual and Procedural Background*

Appellant filed an appeal to the State Board *pro se* on February 10, 2026. On February 11, 2026, before the appeal was docketed, Appellant filed an amended appeal adding a request to vacate or stay the nonrenewal decision and adding the signature and title of the operator’s CEO. The State Board docketed the appeal using the signed February 11 amended appeal. (2/17/26 Memorandum to Parties).

On February 13, 2026, City Schools provided Appellant with written notice of its decision not to renew the charter based on the “not effective” ratings in the Academics section and the Financial Management/Governance section of the renewal rubric and provided the Final Operator Renewal Report (Final Report). The Final Report was nearly identical to the November 12, 2025 Preliminary Operator Renewal Recommendation Report (“Preliminary Report”) shared with Appellant.<sup>1</sup> (Local Bd. Opp., Ex I).

The Appellant included two bases for its State Board appeal:

- City Schools violated its own mandatory non-renewal procedures under Administrative Regulation IHB-J-RA, Section G, by prematurely notifying families and the community of the CEO’s recommendation before any Board vote occurred.
- City Schools relied on financial conditions that were caused by unlawful funding practices, which the MSBE has now ruled improper in Opinion No. 26-03.

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<sup>1</sup> Edits other than changing language in the Preliminary Report to state that the Final Report reflected the City Board’s decision instead of the CEO’s recommended decision were minor and immaterial.

On March 30, 2026, the State Board transferred the appeal to the Office of Administrative Hearings (“OAH”) to conduct a hearing and issue a proposed decision.

On April 24, 2026, City Schools filed a Motion to Dismiss for failure to state a claim upon which relief may be granted. The parties submitted responsive pleadings. The parties submitted prehearing statements in May. On May 22, 2026, the Administrative Law Judge (“ALJ”) conducted a prehearing conference and heard argument on the Motion to Dismiss. A hearing on the merits was scheduled for June 24, 2026.

On May 26, 2026, the ALJ issued a Prehearing Conference Report and Scheduling Order (“Prehearing Conference Report”). *Id.*, Ex. M. On June 1, 2026, Brandon F. Cooper, entered his appearance as counsel on behalf of Appellant, replacing counsel that had entered their appearance at OAH. On June 3, 2026, Appellant filed a “Consent Motion to Postpone Hearing and Reschedule Hearing for July 23, 2026.” On June 8, 2026, Appellant filed a Motion to Amend and Correct Prehearing Conference Report and Scheduling Order.

On June 8, 2026, the ALJ held a status conference to address the motions. In its Motion to Amend and Correct, Appellant requested that it be permitted to amend and correct the Prehearing Conference Report to change issues, increase the hearing days, and add witnesses and exhibits. (Status Conference Report). During the conference, Appellant explained that it was seeking to amend the appeal to include all bases for the City Schools’ nonrenewal decision that were beyond the scope of the issues set forth in the Prehearing Conference Report, including the Academics category. *Id.*

On June 9, the ALJ denied Appellant’s motion to amend the appeal, finding it improper at that stage of the proceedings given the pending Motion to Dismiss based on the original appeal and the ALJ’s determination that amendment is not within the scope of the ALJ’s delegated authority. *Id.* The ALJ directed Appellant to file by June 12 either proof that it filed a request to amend the appeal with the State Board or the legal authority which permits the ALJ the ability to grant a request to amend an appeal transferred to OAH by the State Board.<sup>2</sup> *Id.*

The ALJ scheduled another status conference on August 7, 2026 to receive an update on the amendment status and to set a new hearing date. *Id.* On June 9, 2026, the ALJ also issued a Ruling on Motion denying the local board’s Motion to Dismiss. (Ruling on Motion).

On June 12, 2026, Appellant filed with the State Board a Request for Leave to Amend Appeal and Accept Proposed Amended Appeal (“Request for Leave to Amend”). The local board filed an opposition and the Appellant filed a reply.

#### *Request for Leave to Amend Appeal*

Appellant seeks leave to amend “so the appeal may be decided on the actual issues involved in the properly appealed nonrenewal decision, including the issues City Schools itself has placed in dispute.” (Request for Leave to Amend at 2). Appellant states that “the proposed amended appeal clarifies that Baltimore Collegiate challenges the nonrenewal decision as a whole, including City Schools’ financial findings, academic findings, application of its renewal policy and rubric, reliance on those findings, and contention that academics alone render any

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<sup>2</sup> The ALJ denied Appellant’s motion to correct the Prehearing Conference Report as the matters Appellant sought to correct were contingent on an amendment to the appeal and the standard for correction was not met. *Id.*

financial error harmless.” *Id.* The issues presented in the Proposed Amended Appeal are as follows:

- Whether City Schools’ January 14, 2026 decision not to renew Baltimore Collegiate’s charter and to close the school at the conclusion of the FY26 school year was arbitrary, unreasonable, unsupported by substantial evidence, or illegal.
- Whether City Schools acted arbitrarily, unreasonably, or illegally in rating Baltimore Collegiate “Not Effective” in Financial Management and Governance where that rating was affected by erroneous financial assumptions, improper methodology, inaccurate calculations, and/or the charter-funding methodology addressed by the State Board in *In re Baltimore City Pub. Charter Schs.*, MSBE Op. No. 26-03 (2026).
- Whether City Schools’ academic findings, academic rating, and reliance on academic performance were arbitrary, unreasonable, unsupported by substantial evidence, inconsistently applied, or illegal because City Schools violated, misapplied, or inconsistently applied its own charter renewal policy, administrative regulation, evaluation rubric, renewal framework and procedures.
- Whether City Schools may rely on academic performance as an independent basis to affirm the nonrenewal decision where the local board’s actual decision relied on multiple grounds, including financial findings the Baltimore Collegiate contends were materially flawed.

COMAR 13A.01.05.04A provides that “[a] party may amend an appeal or other pleading upon leave of the State Board or by written consent of the other party.” The decision to allow amendment of an appeal lies within the discretion of the State Board. *Latin Schs. of America, LLC (II) v. Baltimore City Bd. of Sch. Comm’rs*, MSBE Order No. OR19-07 (2019). We look to Maryland’s principles regarding amendment of pleadings which hold that amendments should be freely allowed when justice so permits and may be refused only where amendment would result in prejudice to the opposing party or undue delay. *RRC Ne., LLC v. BAA Maryland, Inc.*, 413 Md. 638, 673-74 (2010)(addressing amendment of pleadings under Maryland Rule 2-341(c)).

The local board argues that the State Board has already permitted Appellant to amend its appeal once when it was proceeding *pro se*, therefore, Appellant should not be permitted to amend it a second time. The minimal alterations to the appeal made by Appellant the day after its initial submission, which occurred before the appeal was docketed by the State Board and sent to the local board, cannot reasonably be considered a categorical bar to a later request for leave to amend the appeal.

Although the local board attempts to recast the Request for Leave to Amend as a request to extend the 30-day appeal deadline which requires a showing of fraud, lack of notice, or extraordinary circumstances under COMAR 13A.01.05.04B(3), citing *Latin Schs. of America*, MSBE Order No. 19-07, the facts of that case are clearly distinguishable. It concerned an underlying deficient appeal that failed to comply with requirements of COMAR 13.01.05.02A (i.e. no statement of facts, no issues or reasons for appeal) and asked merely that the State Board establish a briefing schedule or grant Appellant leave to amend the appeal. *Id.* The State Board dismissed the appeal as deficient and declined to permit the amendment, viewing it under those facts as “essentially a request to extend the 30-day appeal deadline” and applying the extension

of time standard to the dismissal decision. The initial appeal in this case was timely filed in compliance with COMAR requirements. We do not find the local board's argument persuasive.

The local board presents various other arguments related to the breadth of the amendment and expansion of the scope of the appeal, and other matters related to the substantial effort that will be entailed in it having to address the amended appeal after four months of litigation have already passed. Whether the local board will need to file additional motions, amend its prehearing statement, prepare for a longer hearing, and the like, such matters are the ordinary consequence of an amendment.

We agree with Appellant that the local board is not prejudiced by the amendment. In the amendment context, prejudice means a material impairment of the opposing party's ability to defend; unfair surprise, or an amendment that "raises a new legal theory that would require the gathering and analysis of facts not already considered by the [opposing party]" and "is offered shortly before or during trial" as compared to one that "merely adds an additional theory of recovery to the facts already pled." *Laber v. Harvey*, 438 F.3d 404, 427 (4th Cir. 2006) (en banc)(construing the federal analogue to Maryland Rule 2-341). The operative facts remain essentially the same. The local board is aware of the events that gave rise to its nonrenewal decision and can defend it accordingly. Nor is the timing too soon before trial as no merits hearing date is set. While we recognize the amendment will inevitably result in some additional time for the case to proceed, we do not find that this amounts to undue delay. *See Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir. 1980).

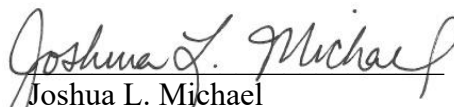
The local board makes several other arguments that we find do not prevent amendment. The local board may still raise objections in a motion to dismiss if it so chooses, and our ruling on the Motion for Leave to Amend is not intended to preclude the local board from raising any arguments based on the amendment.

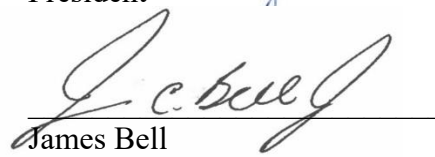
Therefore, it is this 28<sup>th</sup> day of July 2026 by the Maryland State Board of Education,

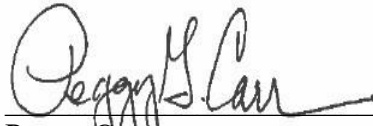
ORDERED, that Appellant's Request for Leave to Amend is granted; it is further

ORDERED, that nothing in this Order precludes the Appellee from filing preliminary motions related to the amended claims.

MARYLAND STATE BOARD OF EDUCATION

  
Joshua L. Michael  
President

  
James Bell  
Vice-President



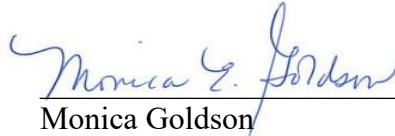
Peggy Carr



Chet Chesterfield



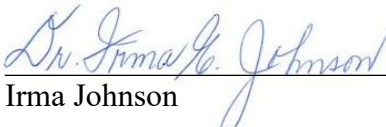
Kenny Clash



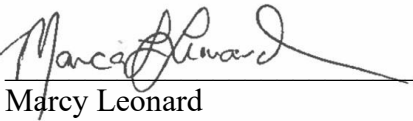
Monica Goldson



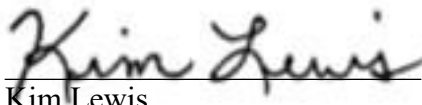
Nick Greer



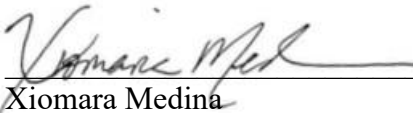
Irma Johnson



Marcy Leonard



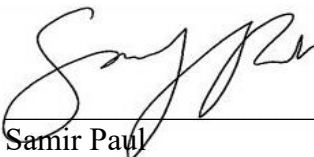
Kim Lewis



Xiomara Medina



Nicole Murray-Lewis



Samir Paul