

MERIDIAN ACADEMY,

Appellant

v.

BALTIMORE CITY BOARD OF SCHOOL  
COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-33

## OPINION

### INTRODUCTION

The charter school applicant, Meridian Academy, has appealed the school system's failure to consider the merits of its charter school application because the application was missing required components at the time it was filed with the school system. The Baltimore City Board of School Commissioners (local board) has filed a Motion for Summary Affirmance.

### FACTUAL BACKGROUND

In the Baltimore City Public School System (BCPSS), all charter school applications for schools opening for the 2008-2009 school year were due by 5:30 p.m. on Tuesday, September 4, 2007. BCPSS posted this deadline on the school system's website and BCPSS staff provided this information to applicants contacting the school system. (Weeldreyer Affidavit).

Each application submitted to the Office of New, Charter, and Innovation Schools (Charter School Office) by the deadline underwent a technical review in the presence of the person delivering it to the office. The purpose of the technical review was to make sure that each application contained the required components at the time of submission. (Weeldreyer Affidavit). The technical review consisted of staff reviewing the headings of each section of the application to make sure that the required sections were present. If a required section was not present, it was circled on the checklist of required components. (Manigo Affidavit).

The Appellant's consultant, Dr. Iris Metts, delivered Appellant's charter school application during the day on September 4, 2007. During the technical review, BCPSS staff determined that several required components of the application were missing based on missing headings. Staff advised Dr. Metts that she could complete the eight missing sections with the required information and resubmit the application by 5:30 p.m. Staff provided Dr. Metts with a copy of the Technical Review Form that listed the missing components. At Dr. Metts' request,

staff also included the statement “will resubmit by 5:30 p.m.” on the form. (Manigo Affidavit; Technical Review Form).

Dr. Metts returned to the Charter School Office at 6:00 p.m. At that time, she advised staff that the missing information had been in the original application, but was placed under headings different from the ones in the school system’s application. Dr. Metts did not mention this fact during the earlier technical review.

Staff allowed Dr. Metts to insert additional pages into the original application and submit it. (Manigo Affidavit). Because the application was submitted after the 5:30 deadline, however, staff did not perform another technical review. Staff advised Dr. Metts that only Dr. Alonso, the Chief Executive Officer (CEO), would be able to authorize acceptance of a late application. (Weeldreyer Affidavit).

By letter dated September 24, 2007, Laura Weeldreyer, Director of the Charter School Office, advised Appellant that the application was rejected because of a failure to pass the technical review.<sup>1</sup> This letter was sent to Dr. Staci Smith-Cannon, a member of the Appellant’s Board of Directors. (Weeldreyer Affidavit).

Dr. Smith-Cannon inquired about the rejection of Appellant’s application with the Charter School Office. Ms. Weeldreyer provided Dr. Smith-Cannon with a written explanation of the technical review results. (*Id.*). In that letter, dated October 15, 2007, Ms. Weeldreyer gave a narrative version of the checklist in the Technical Review Form that had been provided to Dr. Metts on September 4, 2007. This checklist set forth the components that were missing from the application. Ms. Weeldreyer also explained that the addendums submitted by Dr. Metts after 5:30 on September 4 were not considered because they were not received prior to the deadline.

Appellant appealed the rejection of the charter school application to Dr. Alonso, stating as follows:

The required information was already included in the application, but rather than dispute staff, the application was as quickly as possible revised in our office and resubmitted. Unfortunately, rush-hour traffic on September 4 prevented us from arriving back at your office until 30 minutes after the deadline. Despite our request for a 30 minute consideration and despite the fact that staff was still in place, the application was not accepted.

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<sup>1</sup>Ms. Weeldreyer states in her affidavit that this decision was made after consultation with Dr. Alonso and the local board. Her September 24 letter does not state this. (Weeldreyer Affidavit).

(Letter to Alonso). Dr. Metts explained where the information from the missing headings was located in the original application. She also maintained that the rejection of the application was invalid because only one person signed off on the rejection while the form requires that any rejection of the application be made with two signatures. (*Id.*).

Although Appellant's letter of appeal addressed to Dr. Alonso is dated October 13, 2007, it was not received by Dr. Alonso until November 13, 2007. (Weeldreyer Affidavit). Dr. Alonso did not respond to Appellant's letter. This appeal to the State Board followed.

#### ANALYSIS

This case is an appeal of the failure of BCPSS to consider the merits of Appellant's charter school application because it failed technical review based on missing application components. The local board argues that the appeal should be dismissed because it was untimely filed with the State Board. Based on our review, however, we believe that the critical issue here is not whether this appeal was timely filed with the State Board, but rather, whether the appeal was appropriately filed with the State Board, at all, given that there is no local board decision in the matter.

This Board recently explained the process for appealing a decision denying a charter school application in *Sojourner Truth Charter School v. Prince George's County Board of Education*, MSBE Opinion No. 08-25 (April 30, 2008). As we stated, the law authorizing charter schools establishes that appeals from decisions denying charter school applications are appeals pursuant to § 4-205(c) of the Education Article. *See* Md. Educ. Code Ann. § 9-104(b). Under § 4-205(c), each county superintendent is empowered to decide all controversies and disputes involving the rules and regulations of the county board. The charter school application filing procedures are such rules, and this case is about the proper application of the appeal procedures.


Here, Ms. Weeldreyer, the Director of the Charter School Program, advised Appellant in writing on September 24 that the charter school application was rejected because of a failure to pass the technical review. She reiterated this decision by letter dated October 15 including information from the Technical Review Form that was previously received by Dr. Metts. We presume that Ms. Weeldreyer was acting as the CEO's designee, thus an appeal of her decision should have been taken to the local board.

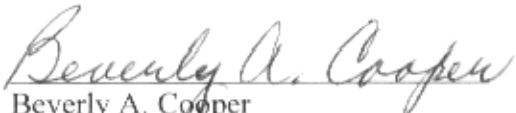
Appellant filed an appeal of Ms. Weeldreyer's decision with Dr. Alonso. This was not unreasonable given that BCPSS staff had advised Dr. Metts, Appellant's representative, that only Dr. Alonso would be able to authorize acceptance of a late application. Dr. Alonso received the appeal on November 13, 2007. He could have forwarded the appeal to the local board for a decision, but he did not. To date, there has been no response to Appellant's letter. Meanwhile, Appellant filed an appeal with the State Board.

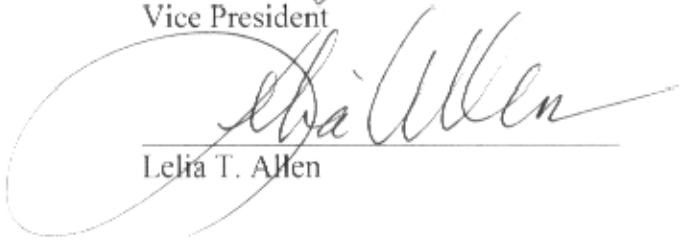
The § 4-205 process has not been followed here. Only after the local board decides the issues raised in the appeal, does the right to appeal to the State Board arise. § 4-205(c)(3). The view of the local board as to whether the appeal of Ms. Weeldreyer's decision was timely filed, as to whether the required components were a part of the application submitted by Dr. Metts prior to the 5:30 deadline, and also as to the immutability of the 5:30 filing deadline with regard to the addendums to the application would have been valuable to this Board in conducting an informed review of the issues raised in the case. Appellant filed an appeal of Ms. Weeldreyer's decision with the CEO, thereby attempting to initiate the appeal process. Dr. Alonso should have forwarded the appeal to the local board.

CONCLUSION

For these reasons, we remand the case to the local board for a decision based on the letter of appeal addressed to Dr. Alonso.

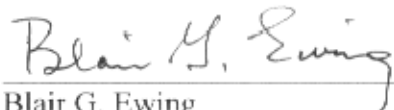
  
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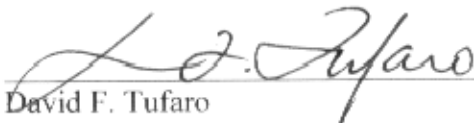
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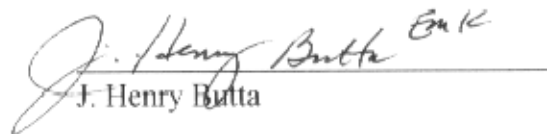
Karabelle Pizzigati



David F. Tufaro

DISSENT

I disapprove of the process the local board used in reviewing the charter school application for technical sufficiency.



J. Henry Butta

June 25, 2008