

LATIN SCHOOLS OF
AMERICA, LLC,

Appellant

v.

BALTIMORE CITY BOARD
OF SCHOOL
COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 19-09

OPINION

INTRODUCTION

Latin Schools of America, LLC. (Latin Schools), a charter school applicant, has asked this Board to reconsider its decision that reversed Baltimore City Board of School Commissioners denial of the charter application and remanded the case to allow Latin Schools an opportunity to address the deficiencies the local board identified in its application. Instead, Latin Schools seeks a decision on the merits of its original appeal. The local board has opposed the request for reconsideration.

FACTUAL BACKGROUND

On December 4, 2018, the State Board issued its Order reversing and remanding this case. The Order stated, in full:

The Latin Schools of America, LLC (Latin Schools) appealed the Baltimore City Board of School Commissioners' (local board) denied of their charter school application. One basis for that appeal is the unfairness of the charter school review and approval process. In a decision issued on October 23, 2018, we addressed in some detail the charter school review and approval process that is in place in Baltimore City Schools. *See The DaVinci Collaborative, LTD. v. Baltimore City board of School Commissioners*, MSBE Op. No. 18-34. In that case, this Board determined that that process was unfair in any number of ways such that it resulted in an arbitrary and unreasonable decision.

That very same process was employed in the review of the Latin Schools application. We apply the same reasoning here as we did in the *DaVinci* appeal. In that case, we reversed the local board's denial and remanded the case to the local board to provide an opportunity to the charter school to cure the deficiencies the local board

identified in its decision to deny the application. We order the same result here.

Therefore, on this 4th day of December, 2018, the decision of the local board is reversed and this case is remanded to allow Latin Schools to cure the deficiencies identified in the local board's decision in this matter. It is so Ordered.

MSBOE OR18-10 (December 4, 2018).

The Latin Schools objects to the application being grouped with the *Da Vinci Collaborative* decision. Latin Schools asserts that the facts and legal arguments in that case are different from the facts and arguments in the Latin Schools case. They state:

By way of just some examples, Latin Schools reached out numerous times, as is documented in the record, requesting meetings in person and *via* phone to Schools CEO Santelises, Chief of Staff Perkins-Cohen and Members of the Board. Also different, Latin Schools argued the merits of its case on substance based on its application, which also differs from the DaVinci application, and it was not refuted in either response from Appellee. Latin Schools also referenced and provided documentation proving that unlike other charter operator applicants, it did not receive questions in advance of its interview with the New and Charter Schools Advisory Review Board. Finally, Latin Schools, unlike Da Vinci, argued the applicability of the *Accardi* doctrine to the case at hand, and a determination of the applicability of the same and what it triggers, requires an analysis of the facts and conclusions of law.

Request for Reconsideration at 3.

Latin Schools seeks an “independent” opinion from the State Board addressing all the issues, procedural and substantive, raised in its appeal.

STANDARD OF REVIEW

A party aggrieved by the decision of the State Board may file a request for reconsideration. COMAR 13A.01.05.10A. A decision may not be disturbed “unless there is sufficient indication in the request that (1) the decision resulted from a mistake or error of law; or (2) new facts material to the issues have been discovered or have occurred subsequent to the decision.” COMAR 13A.01.05.10D. The State Board may, in its discretion, abrogate, change, or modify the original decision. COMAR 13A.01.05.10G.

LEGAL ANALYSIS

The only reasons to reconsider a decision are “mistake/error of law” or “new material facts.” Latin Schools presents no new material facts. It requests that this Board decide the substantive merits of the appeal based on the facts presented in the appeal. The Board, however, has remanded the case to the local board for them to take another look at Latin Schools

application. If, as Latin Schools states, its application contains no deficiencies, the remand presents an opportunity for a speedy approval from the local board. It is our view that a remand was appropriate and within the discretion of the Board.

Latin Schools has not demonstrated an error of law in the decision reversing and remanding the case. As the local board points out, the fact that Latin Schools did not get the relief it requested - - direct MSDE to conduct a curriculum review, direct the local board to grant Latin School's charter application and/or direct MSDE to conduct a *de novo* review of the charter application - - does not rise to an error of law.

CONCLUSION

For all these reasons, the Request for Reconsideration is denied.

Signatures on File:

Justin M. Hartings
President

Stephanie R. Iszard
Vice-President

Chester E. Finn, Jr.

Vermelle D. Greene

Jean C. Halle

Rose Maria Li

Joan Mele-McCarthy

Michael Phillips

David Steiner

Warner I. Sumpter

February 26, 2019