

BALTIMORE CITY BOARD OF  
SCHOOL COMMISSIONERS,

Appellant

v.

AFYA BALTIMORE, INC., et al.

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR16-09

ORDER

Appellant Baltimore City Board of School Commissioners (local board) are in an ongoing dispute with eleven charter school operators (Appellees) about charter school funding. The Charter schools want charter school funding to be commensurate with non-charter school funding, while the local board believes that its funding formula for charter schools complies with §9-109(a) of the Education Article and has given the charter schools commensurate funding under the law.

The Appellees filed breach of contract actions against the local board in the Circuit Court for Baltimore City, claiming that the local board failed to provide funding proportionate with public schools in the same jurisdiction, as required by their charter school contracts. On November 9, 2015, the local board filed a Petition for Declaratory Ruling with the State Board. The local board also moved to dismiss the Circuit Court complaint for lack of jurisdiction on that same day, claiming that the State Board possessed “primary jurisdiction” to evaluate the local board’s compliance with state law.

On January 8, 2016, the Circuit Court judge ruled from the bench and denied the local board’s petition to dismiss the complaint. The judge found that the Circuit Court had proper jurisdiction. The Court did not grant the local board’s request to stay the proceeding. On February 23, 2016, the State Board issued an Order dismissing the local board’s Petition for Declaratory Ruling on the grounds that the parallel proceedings with the State Board and the Circuit Court would not serve the purpose of judicial economy. In addition, the Petition failed to present any facts upon which to judge the legal adequacy of the charter school funding.

On May 31, 2016, the local board once more filed a Petition for Declaratory Ruling. On June 3, 2016, the charter schools filed an Emergency Motion For Stay Or, In The Alternative, Extension Of Time And Additional Relief. They contend that the local board’s petition is outside of the State Board’s jurisdiction because the Petition asks for extensive fact finding instead of the interpretation of laws. On June 13, 2016, the local board responded in opposition to the charter schools’ motion.

The charter schools also explain that the Circuit Court case is stayed and that they have appealed the stay to the Court of Special Appeals. Thus, the case remains pending in the judicial system. Therefore, because the case remains within the jurisdictional purview of the courts, the State Board declines to consider the Petition for Declaratory Ruling.

Therefore, it is this 26 day of June, 2016 by the Maryland State Board of Education,  
ORDERED, that the local board's Petition for Declaratory Ruling be dismissed.

MARYLAND STATE BOARD OF EDUCATION

  
\_\_\_\_\_  
Guffie M. Smith, Jr.  
President