

HARVEST FOUNDATION
GROUP,
Appellant

v.

BALTIMORE COUNTY
BOARD OF EDUCATION,
Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 19-11

ORDER

Harvest Foundation Group (HFG) filed an appeal with the State Board challenging the decision of the Charter School Liaison for Baltimore County Public Schools (BCPS) that HFG's charter school application did not pass technical review because it was incomplete and, therefore, would not move forward in the application process.

The local board filed a motion to dismiss maintaining that the matter is not properly before the State Board because HFG did not appeal to the local board so there is no local board decision to review. Alternatively, the local board maintains that the appeal was untimely filed.

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(d). Under §4-205(c), each local superintendent is empowered to decide all controversies and disputes involving the rules and regulations of the local board. Also under §4-205(c), the decision of the local superintendent must first be appealed to the local board before an appeal can be taken to the State Board. *Id.* The charter school law also presumes that the local board will render a decision prior to the filing of a State Board appeal. *See* Md. Educ. Code Ann. §9-104(d).

HFG maintains that after meeting with the Charter School Liaison, Mr. Billingslea, on November 30, 2018, it had a different understanding of the technical review process and thought it would be able to submit any missing documentation. It is difficult to contemplate how such a misunderstanding could occur. The BCPS Charter School Application Procedures make clear that the application first undergoes technical review to determine if the technical elements of the application are complete. If not, the applicant receives notification that the application is incomplete and that the applicant is disqualified from entering the next stage of the approval process. The Procedures also state that BCPS will not extend an opportunity to address any deficiencies at any stage of the process once the application cycle has officially begun. (Procedures at 22).

HFG also maintains that BCPS never advised it of its right to appeal to the local board. Ignorance of a right to appeal is not an excuse for failing to file the appeal. *See William M. and Corona S.*, MSBE Op. No. 13-63 (2013) and cases cited therein. As we have stated before, there is no law or regulation that requires school districts to inform students and parents of their appeal rights. *Id.* Although providing this information is encouraged, it is not mandatory and the

ultimate responsibility for adhering to the filing requirements rested with HFG.

Accordingly, on this 23rd day of July, 2019 we dismiss this appeal because there is no local board decision to review. COMAR 113A.01.05.03B(1)(a).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Warner I. Sumpter
President