

BARRY LEBOWITZ,  
Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,  
Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR25-11

### ORDER

Barry Lebowitz (“Appellant”) requests that this Board reconsider its March 25, 2025, order in *Barry Lebowitz v. Montgomery Cnty. Bd. of Educ.*, MSBE OR25-05, which dismissed for lack of jurisdiction the Appellant’s appeal of the Montgomery County Board of Education’s (“local board”) adoption of a resolution authorizing Montgomery County Public Schools (“MCPS”) to enter into a contractual agreement with FLO Analytics to conduct and facilitate a school boundary study. The local board opposes the reconsideration request.

#### *Motion for Reconsideration Standard*

A decision on a request for reconsideration shall be made in the discretion of the State Board except that a decision may not be disturbed unless there is sufficient indication in the request that:

- (1) The decision resulted from mistake or error of law; or
- (2) New facts material to the issues have been discovered or have occurred subsequent to the decision.

The State Board may refuse to consider facts that the party could have produced while the appeal was pending. The State Board may, in its discretion, abrogate, change, or modify the original decision. COMAR 13A.01.05.10.

#### *No Basis for Reconsideration*

The State Board dismissed the instant appeal because none of the Appellant’s arguments asserted a violation of State education law or regulation, or a violation of statewide educational policy to bring it within the State Board’s jurisdiction to review a quasi-legislative decision of a local board under §2-205 of the Education Article. The Appellant’s motion for reconsideration presents no new material facts or evidence and fails to demonstrate any mistake or error of law that would warrant reconsideration. Appellant simply reasserts the arguments previously raised which amount to concerns involving local policy and the wisdom of the local board’s decision.

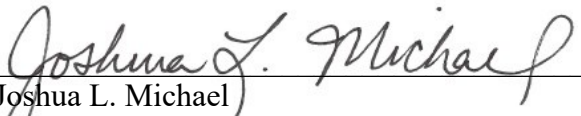
One of Appellant’s appeal arguments was that two of the schools included in the boundary study have large Jewish populations and the boundary study could adversely affect Jewish students within MCPS and make them more vulnerable to antisemitism and civil rights violations if, based on the results of the boundary study, the local board were to make a redistricting decision that moves Jewish students from these schools to schools with smaller

Jewish populations. Appellant maintains in his reconsideration request that this argument raises an educational policy issue of statewide concern regarding compliance with federal civil rights law bringing it within the State Board's jurisdiction. Appellant's argument, however, is based upon contingencies about events that have not yet occurred. At this juncture, Appellant's allegations cannot reasonably be viewed as satisfying §2-205 jurisdictional requirements.

In his motion for reconsideration, Appellant for the first time alleges that the local board's response violated procedural filing requirements by exceeding the filing page limit by one page<sup>1</sup> and including exhibits by hyperlink instead of as pdf attachments.<sup>2</sup> A request for reconsideration is not an appropriate mechanism for raising new procedural objections that were readily apparent and could have been raised in the initial appeal. Appellant did not previously raise these issues, and they are, therefore, waived. Moreover, regardless of the local board's filings, it does not change the matters raised by Appellant in his appeal, which the State Board can dismiss on its own accord for lack of jurisdiction. *See* COMAR 13A.01.05.03B(2).

Because the Appellant has failed to provide an adequate basis for reconsideration of MSBE OR25-05, it is this 29<sup>th</sup> day of May, 2025, ORDERED, by the Maryland State Board of Education, that the request for reconsideration is denied.

MARYLAND STATE BOARD OF EDUCATION

  
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Joshua L. Michael  
President

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<sup>1</sup> The extra page of the local board's response is the signature page which contains no facts or argument.

<sup>2</sup> The local board submitted its response, table of contents, and case record through a OneDrive link containing a folder with the documents as separate pdfs. This is a regular business practice given that the size of many documents makes electronic sharing by email difficult. The local board did not submit documents as individual hyperlinks, which are the types of hyperlinks the State Board does not accept in appeal filings.