

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

CAMPBELL STEM PRESERVATION)
& EDUCATION FOUNDATION,)
ALASKA CORPORATION,)

Plaintiff,)

v.)

ANCHORAGE SCHOOL DISTRICT)
and ANCHORAGE SCHOOL BOARD,)

Defendants.)

Case No. 3AN-26-06081 CI

MOTION FOR RECONSIDERATION

Defendants Anchorage School District and the Anchorage School Board (together “ASD”) move for reconsideration of the Court’s Order Granting Preliminary Injunction Order pursuant to Alaska Rule of Civil Procedure 77(k)(1)(i), (ii), and (iii). Reconsideration is warranted for three reasons. *First*, the Court failed to consider whether Plaintiff’s claims and requested relief present nonjusticiable political questions. *Second*, the Court overlooked that the vote of the elected School Board to close Campbell STEM Elementary School is a legislative act not subject to an arbitrary and capricious or “hard look” administrative challenge. *And third*, the Court overlooked the material fact that the School Board *did* consider the alternative funding information that served as the basis of the Court’s arbitrary and capricious finding and declined to reconsider its decision to close Campbell STEM.

A. The Order Does Not Resolve Whether the Claims are Justiciable

Whether the Foundation’s claims and requested relief are nonjusticiable political questions is a threshold question that must be addressed before the Court may reach the

merits.¹ When analyzing whether a claim is justiciable, Alaska courts consider the six *Baker v. Carr* factors, the presence of any one of which supports a nonjusticiability finding.² In Opposition, ASD argued that the Foundation’s claims are nonjusticiable questions under three of the *Baker* factors.³ While the Court included a subsection in its Order entitled “Non-Justiciable Political Question,” that subsection does not contain a ruling on justiciability.⁴

It is impossible for the Court to adjudicate the Foundation’s claims without elevating its policy judgment regarding the proper allocation of scarce education funds—without judicially discoverable and manageable standards to guide that policy judgment—over the judgment of the elected School Board tasked with the constitutional duty to manage the public school system. The Court should accordingly find that the Foundation’s claims are nonjusticiable and reconsider the Order.

B. The Elected School Board’s Vote to Close Campbell STEM is Not an Agency Action Subject to an Arbitrary and Capricious Challenge

The Court concluded that the School Board’s decision to close Campbell STEM could be arbitrary and capricious in violation of administrative law principles. But the School Board’s vote to close Campbell STEM was a legislative act, not an administrative decision. The elected School Board’s legislative policy decisions are subject to judicial review for compliance with statutory or constitutional mandates, but are not reviewable as agency decisions under administrative law principles. The Court’s preliminary injunction order therefore applies the incorrect framework.

The Alaska Supreme Court made clear in *Tunley v. Municipality of Anchorage Sch. Dist.* that the School Board is a “legislative body with legal responsibilities which

¹ See *Alaska Wildlife Alliance v. State*, 74 P.3d 201, 207 (Alaska 2003).

² See *Sagoonick v. State*, 503 P.3d 777, 793 (Alaska 2022) (quoting *Baker v. Carr*, 369 U.S. 186, 217 (1962)); see also *Kanuk v. State*, 335 P.3d 1088, 1096–97 (Alaska 2014).

³ See Opposition to Emergency Motion for Temporary Restraining Order, Preliminary Injunction and Limited Expedited Discovery at 24–27 (April 21, 2026) (“Opposition”).

⁴ Order at 14–15.

in important respects are distinct from those exercised by the assembly.”⁵ The School Board’s status as an independent legislative body is “nowhere...more apparent than in school system budgetary matters.”⁶ This legislative authority extends to “pupil assignment and attendance area determinations,” including decisions regarding “the closing of a school.”⁷ These difficult budgetary decisions are “subject to statutory and constitutional restrictions,”⁸ not to restrictions imposed by administrative law principles. Here, this Court properly found no statutory or constitutional violations. That should be the end of the analysis.

*Bruce v. School Dist. No. 60*⁹ is directly on point. In that case, the Colorado Court of Appeals rejected an arbitrary and capricious challenge to school closure:

Unless fraud or abuse of discretion clearly appears we will not disturb the legislative actions of legally established municipal bodies. A reviewing court may determine whether a board action conflicts with the provisions of the constitution or state statutes. However, judicial review of quasi-legislative action is more limited than that of quasi-judicial action; thus, a court may not substitute its opinion for that of a school board. It follows that a mere allegation that the weight of the

⁵ *Tunley v. Municipality of Anchorage Sch. Dist.*, 631 P.2d 67, 75 (Alaska 1980). *See also Copper River Sch. Dist. v. Traw*, 9 P.3d 280, 286 (Alaska 2000) (“[T]he school board acts as a legislative policymaker.”). *Compare Ballard v. Stich*, 628 P.2d 918, 920 (Alaska 1981) (“[T]he test for determining when an entity is acting as an ‘administrative agency’ is functional. Whenever an entity which normally acts as a legislative body applies policy to particular persons in their private capacities, instead of passing on general policy or the rights of individuals in the abstract, it is functioning as an administrative agency within the meaning of Appellate Rule 45.”).

⁶ *Id.* *See also Homeward Bound, Inc. v. Anchorage Sch. Dist.*, 791 P.2d 610, 613 (Alaska 1990) (“[T]he School Board is an elected legislative body with legal responsibilities distinct from those exercised by the Assembly, particularly with respect to school system budgetary matters.”).

⁷ *Id.*

⁸ *Id.*

⁹ 687 P.2d 509, 510–11 (Colo. App. 1984). *See also Save Our Schools v. Board of Educ. of Salt Lake City*, 122 P.3d 611 (Utah 2005) (“Though the closure of one’s neighborhood school is a sad event for those affected, that disappointment does not qualify a court to reevaluate an elected school board’s decision unless that decision truly was without justification. The remedy for those dissatisfied with a school board’s decision is in the voting booths on election day.”).

evidence considered by the board supports a different decision than that reached by the board is insufficient to state a claim for relief. Here, the substance of plaintiffs' allegations of arbitrary and capricious action and abuse of discretion is that under the Board's express criteria, other schools within the district were better candidates for closure than Thatcher. Under the principles set forth above, these allegations were properly deleted from plaintiffs' complaint.

The same analysis applies here.

Finally, to the extent Plaintiff's challenge could theoretically be characterized as an appeal of an administrative decision, it is untimely. Appellate Rule 602(a)(2) required Plaintiff to file suit within 30 days of the administrative decision it was appealing. The School Board voted to close Campbell STEM on February 24, 2026. Plaintiff filed suit 44 days later on April 8, 2026. The complaint is untimely.¹⁰

C. The Court Overlooked the Fact that the School Board Subsequently Considered the Private Sector Grant

Under the preliminary injunction standard, the Foundation must "make a clear showing of probable success on the merits of the dispute before a court may grant the preliminary injunction."¹¹ While the Court found that the Foundation "has shown probable success on the merits of its arbitrary and capricious claim" because two School Board members said they were unaware of a private sector grant, the Court overlooked the material fact that *after* the School Board became aware of this grant, the School Board took a second vote on whether to rescind the school closure in light of that grant.¹² The School Board voted not to change course.¹³ The School Board therefore "considered [the] pertinent funding sources for Campbell STEM" that served as the

¹⁰ See *Ballard v. Stich*, 628 P.2d 918, 921 (Alaska 1981) (30-day appeal deadline applied because "the relief [plaintiff] is requesting is dependent upon a determination that the underlying administrative proceedings were invalid.").

¹¹ *State v. Galvin*, 491 P.3d 325, 333 (Alaska 2021).

¹² See Order at 23–24.

¹³ See *id.* at 24.

1 basis for the Court’s arbitrary and capricious finding.¹⁴ The School Board exercised its
2 legislative policy discretion to determine the purported grant did not alter the calculus.

3 Further, the Court overlooked the fact that there are no private grant monies
4 actually awarded to Campbell STEM. The Court noted in its Order that ASD “asked
5 the Court to consider listening to the audio record” but that “time did not permit” the
6 Court to do so.¹⁵ At the April 6 public School Board Meeting, Deputy Chief of Schools
7 Kersten Johnson-Struempfer, Ed.D. provided an update to the Board regarding the
8 purported private grant monies. Her testimony on the subject begins at approximately
9 1:14:40.¹⁶ As she explained to the School Board and the public, there were two
10 potential private grants. The first was for approximately \$500,000 that was applied for
11 but not awarded. The second was a \$1,000,000 grant that was “sought after,” but a
12 grant application had never even been submitted. No private grant monies have been
13 awarded to Campbell STEM for maintenance or repair. After this presentation, Board
14 Member Holleman moved to place on the next agenda a vote on whether to rescind the
15 closure of Campbell STEM, and the motion failed 3-4.¹⁷ Thus, in two consecutive
16 meetings, the Board considered the very issue this Court identified in its Order, and
17 twice the Board voted in a manner to stay the course on its closure decision.

18 The Court should accordingly reconsider its Order. The School Board
19 considered the important factors—including pertinent funding sources. The School
20 Board’s decision to move forward with the closure in light of this information was not
21 arbitrary and capricious, but rather was a valid exercise of its legislative authority.

22 ASD respectfully requests the Court reconsider the Order Granting Preliminary
23 Injunction and Limited Expedited Discovery.

24 ¹⁴ See *id.* at 24.

25 ¹⁵ See *id.* at 2 n.3.

26 ¹⁶ See Video of April 6, 2026 School Board Meeting at 01:14:40 (available at
<https://www.youtube.com/watch?v=V3PYmb1o0Ak&list=PL-8GvZQOwWUGVIpSr-n57BfdXs9g3JbLW&index=8>).

¹⁷ See *id.* at 4:12:40–04:14:04.

DATED at Anchorage, Alaska, this 4th day of May, 2026.

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[PROPOSED]
ORDER GRANTING MOTION FOR RECONSIDERATION OF THE
COURT’S ORDER GRANTING PRELIMINARY INJUNCTION AND
LIMITED EXPEDITED DISCOVERY

THE COURT, upon consideration of Defendants Anchorage School District and the Anchorage School Board (together “ASD”) Motion for Reconsideration of the Court’s Order Granting Preliminary Injunction and Limited Expedited Discovery dated May 4, 2026, and being fully advised of the premises, hereby **GRANTS** the Motion for Reconsideration.

In doing so, the Court finds that Plaintiff Campbell STEM Preservation and Education Foundation’s (the “Foundation”) administrative law arbitrary and capricious claim and requested preliminary injunction are nonjusticiable political questions. The separation of powers doctrine prohibits this Court from reviewing nonjusticiable

1 political questions.¹ Whether a claim is nonjusticiable depends on “whether deciding
2 the claim would require [the Court] to answer questions that are better directed to the
3 legislative or executive branches of government.”² To answer this question, Alaska
4 courts look to factors identified in *Baker v. Carr*.³ Under *Baker*, at least one of the
5 following six factors will be “prominent on the surface” and “inextricable” in a
6 nonjusticiable political question:
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8 [1] a textually demonstrable constitutional commitment of the issue to a
9 coordinate political department; or [2] a lack of judicially discoverable
10 and manageable standards for resolving it; or [3] the impossibility of
11 deciding without an initial policy determination of a kind clearly for
12 nonjudicial discretion; or [4] the impossibility of a court’s undertaking
13 independent resolution without expressing lack of the respect due
14 coordinate branches of government; or [5] an unusual need for
15 unquestioning adherence to a political decision already made; or [6] the
16 potentiality of embarrassment from multifarious pronouncements by
17 various departments on one question.⁴

18 The Alaska Supreme Court is clear that “the remedy is a relevant consideration in the
19 political question analysis.”⁵

20 Here, the Court finds that the first three factors are all prominent on the surface
21 and inextricable in the Foundation’s arbitrary and capricious claim and requested
22 preliminary injunction. It is impossible for the Court to adjudicate the Foundation’s

23 ¹ *Forrer v. Dep’t of Fish & Game, Bd. of Fisheries*, 579 P.3d 63, 68 (Alaska 2025).

24 ² *See Kanuk ex rel. Kanuk v. State, Dep’t of Nat. Res.*, 335 P.3d 1088, 1096 (Alaska
25 2014) (citing *Alaska Wildlife Alliance v. State*, 74 P.3d 201, 207 (Alaska 2003)).

26 ³ *See id.* at 1096–97.

⁴ *See Sagoonick v. State*, 503 P.3d 777, 793 (Alaska 2022) (quoting *Baker v. Carr*, 369
U.S. 186, 217 (1962)).

⁵ *See id.* at 794.

1 claims and grant injunctive relief without elevating its policy judgment regarding the
2 proper allocation of scarce education funds—without judicially discoverable and
3 manageable standards to guide that policy judgment—over the judgment of the School
4 Board (the democratically elected policy making body tasked with the delegated
5 constitutional duty to manage the public school system in Anchorage).

7 The Court further finds that the School Board’s vote to close Campbell STEM
8 Elementary School was not an administrative decision subject to an agency appeal and
9 arbitrary and capricious review. It was instead the legislative act of a duly elected local
10 governing body.⁶ The School Board’s legislative policy decisions are subject to judicial
11 review for compliance with statutory or constitutional mandates under the traditional
12 statutory and constitutional principles. They are not reviewable as agency decisions
13 under administrative law principles.⁷

16 Here, the School Board’s decision to close Campbell STEM Elementary School
17 as part of its budgeting obligations was a legislative act, not an administrative one.

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20 ⁶ See *Tunley v. Municipality of Anchorage Sch. Dist.*, 631 P.2d 67, 75 (Alaska 1980); see
21 also *Copper River Sch. Dist. v. Traw*, 9 P.3d 280, 286 (Alaska 2000) (“[T]he school board acts
22 as a legislative policymaker.”). Compare *Ballard v. Stich*, 628 P.2d 918, 920 (Alaska 1981)
23 (“[T]he test for determining when an entity is acting as an ‘administrative agency’ is functional.
Whenever an entity which normally acts as a legislative body applies policy to particular
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24 ⁷ See *Bruce v. School Dist. No. 60*, 687 P.2d 509, 510–11 (Colo. App. 1984); see also
25 *Save Our Schools v. Board of Educ. of Salt Lake City*, 122 P.3d 611 (Utah 2005)
26 (“Though the closure of one’s neighborhood school is a sad event for those affected,
that disappointment does not qualify a court to reevaluate an elected school board’s
decision unless that decision truly was without justification. The remedy for those
dissatisfied with a school board’s decision is in the voting booths on election day.”).

1 Because the Foundation did not establish probable success on the merits of its Open
2 Meetings Act and procedural due process claims, the Foundation is not entitled to a
3 preliminary injunction.
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5 Even if the School Board's vote to close Campbell STEM Elementary School
6 were an administrative act subject to an arbitrary and capricious challenge, the
7 Foundation has not established probable success on the merits of that claim for at least
8 two distinct reasons. First, to the extent the Foundation's challenge is characterized as
9 the appeal of an administrative decision, Appellate Rule 602(a)(2) required the
10 Foundation file suit within 30 days. The Foundation did not do so. The School Board
11 voted to close Campbell STEM on February 24, 2026. The Foundation filed suit 44
12 days later on April 8, 2026. The complaint is untimely as an administrative appeal.
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15 Second, while the Court originally found that the Foundation had established
16 probable success on the merits of its arbitrary and capricious claim because two
17 members of the School Board were unaware at the time of the closure vote of a private
18 sector grant, the Court overlooked the material fact that *after* the School Board became
19 aware of this grant a second vote was taken on whether to rescind the closure of
20 Campbell STEM in light of that grant. The School Board voted not to change course.
21 The School Board therefore considered the pertinent funding sources for Campbell
22 STEM that served as the basis for the Court's finding that the School Board had failed
23 to consider important information and thus the Foundation had established probable
24 success on its arbitrary and capricious claim. Because the School Board *did*
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26

1 subsequently consider this important information and voted to continue moving
2 forward with the closure, the Foundation has not established probable success on the
3 merits of its arbitrary and capricious claim.
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5 In sum, (1) the Foundation's arbitrary and capricious claim and requested
6 preliminary injunction is a nonjusticiable political question, (2) the School Board's vote
7 to close Campbell STEM Elementary School is a legislative act that is not subject to an
8 arbitrary and capricious challenge, (3) the Foundation's administrative law arbitrary
9 and capricious claim is untimely under Appellate Rule 602(a)(2); and (4) the Court
10 overlooked that the School Board did consider the private grant that served as the basis
11 for its original order. The Court therefore reconsiders its Order Granting Preliminary
12 Injunction and Limited Expedited Discovery.
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15 **IT IS HEREBY ORDERED** that the Court reconsiders the analysis contained
16 in Section IV.D of its Order Granting Preliminary Injunction and Limited Expedited
17 Discovery. The Foundation has not shown probable success on the merits of its
18 arbitrary and capricious claim.
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20 **IT IS FURTHER ORDERED** that the Foundation's Motion for Preliminary
21 Injunction is **DENIED**. The preliminary injunction contained in the Court's Order
22 Granting Preliminary Injunction and Limited Expedited Discovery is vacated.
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24 **IT IS FURTHER ORDERED** that the Foundation's Motion for Limited
25 Expedited Discovery is **DENIED**.
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DATED at Anchorage, Alaska, this ____ day of _____, 2026.

Una Gandbhir
Superior Court Judge

AK Trial Courts Court Name	PROOF OF SERVICE	3AN-26-06081CI Case Number
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Proposed Order: Proposed Order Granting Motion for Reconsideration on Order Granting Preliminary Injunction

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Date

/s/Melissa Beneke

Signature

Wright, William (2209074)

Last Name, First Name (Attorney Number)

Schwabe, Williamson & Wyatt

Firm Name

