

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 TO DISMISS

COMES NOW Defendants Anchorage School District and Anchorage School Board (collectively “ASD”), by and through its counsel of record, Schwabe, Williamson & Wyatt, P.C., and hereby moves to dismiss Plaintiff Campbell STEM Preservation and Education Foundation’s (the “Foundation”) Complaint for Injunctive Relief pursuant to Alaska Rule of Civil Procedure 12(b)(6). The Foundation’s claims—which seek an injunction preventing ASD from closing Campbell STEM Elementary School—are nonjusticiable political questions outside the province of this Court. Even if the Foundation’s claims were justiciable, each fails as a matter of law. The Court should accordingly dismiss the Foundation’s Complaint with prejudice. This motion is supported by the attached memorandum in support.

///

DATED at Anchorage, Alaska, this 7th day of May, 2026.

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys for Defendant

By: 

Matthew Singer

Alaska Bar No. 9911072

msinger@schwabe.com

Peter Scully

Alaska Bar No. 1405043

pscully@schwabe.com

William C. G. Wright

Alaska Bar No. 2209074

wwright@schwabe.com

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MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

I. INTRODUCTION

Defendants Anchorage School District and Anchorage School Board (collectively, “ASD”) faced a massive \$90 million deficit due to the State’s decision to inadequately fund public education in Alaska. To close that massive deficit and meet its legal obligation to pass a balanced budget, ASD faced hard decisions about what staff, programs, and facilities to cut while maintaining a meaningful public education for the school-aged children of Anchorage. In the end, the School Board—as the policy-making legislative body charged with the statutorily delegated constitutional duty to maintain the public school system in Anchorage—voted to eliminate significant staff and educational programs, while closing and consolidating three undercapacity elementary schools, in order to close this \$90 million deficit. One of the schools closed under ASD’s adopted and approved budget was Campbell STEM Elementary School.

1 Upset with ASD's decision to close Campbell STEM as part of the cuts required
2 to close the \$90 million budget deficit, Plaintiff Campbell STEM Preservation and
3 Education Foundation (the "Foundation") filed this lawsuit asserting claims for alleged
4 violations of the Alaska Open Meetings Act, the Foundation's procedural due process
5 rights, and arbitrary and capricious agency action. The Foundation seeks injunctive
6 relief to prevent ASD from implementing its decision to close Campbell STEM. Such
7 an injunction would force ASD to cut additional staff, educational programs, or
8 facilities that have been provided for in the already approved budget for the 2026–2027
9 school year.
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11
12 The Court should dismiss the Foundation's Complaint for failure to state a claim.
13 To adjudicate the Foundation's claims would require the Court to elevate its policy
14 judgment regarding the proper allocation of scarce education funds over the judgment
15 of the elected policy-making body tasked with the delegated constitutional duty to
16 manage the public school system in Anchorage. The Foundation's claims are thus
17 nonjusticiable political questions that must be dismissed.¹
18
19

20 Although the Court should not reach the merits of the Foundation's
21 nonjusticiable claims, those claims also fail on the merits. The Foundation's procedural
22 due process claim fails because there is no constitutionally protected interest in
23 attending the individual school of one's choice. And the Open Meetings Act claim fails
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25
26 ¹ See *Alaska Wildlife Alliance v. State*, 74 P.3d 201 (Alaska 2003) (“[T]he political question doctrine is more than jurisdictional and is instead a substantive basis for a dismissal.”).

1 because (1) more notice was given than required to close the *only* school in a
2 community and (2) public hearings on the proposed closure allowed significant public
3 testimony. Finally, the administrative law arbitrary and capricious claim fails because
4 (1) the School Board's vote to close Campbell STEM as part of its budgeting
5 obligations was a legislative act that is not subject to an administrative law arbitrary
6 and capricious challenge and (2) even if that legislative act were subject to such a
7 challenge, the Foundation's arbitrary and capricious claim is untimely. The Court
8 should accordingly dismiss the Foundation's Complaint.
9
10

11 II. FACTS

12 Given the procedural posture of this motion, the following facts come from the
13 bare bones factual recitation in the Foundation's Complaint, as well as documents cited
14 therein and public records the Court may take judicial notice of as described in the
15 concurrently filed Motion for Judicial Notice of Public Records.²
16

17 When ASD entered this year's budget planning process, it was faced with the
18 difficult task of deciding how to cut \$90 million from an already stretched thin budget
19 while fulfilling its statutory duty to "provide for . . . an educational program for each
20 school age child who is enrolled in or a resident of the district."³ On February 9, 2026,
21 the School Board directed the ASD Administration to identify school consolidation and
22
23

24
25 ² See Complaint for Injunctive Relief (April 15, 2026) ("Complaint"); Defendants'
Motion for Judicial Notice (May 5, 2026) ("Motion for Judicial Notice").

26 ³ Alaska Stat. § 14.14.090(2); see ASD Resolution #25-26-01(S.1), at 1 (Feb. 9, 2026),
attached as **Exhibit 1** to Motion for Judicial Notice.

1 operational efficiency options to attempt to preserve student outcomes while achieving
2 cost savings.⁴ This was a continuation of rightsizing discussions that have been
3 ongoing since at least September 2025.
4

5 In directing the ASD Administration to identify potential school consolidation
6 options, the School Board recognized that “underutilized elementary school facilities
7 [and] elementary schools with low enrollment levels . . . reduce the District’s ability to
8 consistently provide robust academic programs and student support services across all
9 schools” and that “strategic consolidation for FY27 and beyond would allow resources
10 to be combined to strengthen academic offerings, staffing models, and student
11 supports.”⁵ The School Board directed the administration, “to the extent feasible within
12 the compressed timeline, address academic impact, service level changes, enrollment
13 trends, transportation considerations, equity implications, and fiscal effects” when
14 making recommendations for the School Board’s consideration.⁶
15
16

17 In response, the ASD Administration recommended closing three elementary
18 schools, including Campbell STEM.⁷ On February 13, 2026, ASD issued public notice
19 that this rightsizing initiative included the proposed closure of Campbell STEM
20 Elementary. This notice included email notice from the ASD Superintendent to the
21
22

23 ⁴ See **Exhibit 1**.

24 ⁵ *Id.* at 1–2.

25 ⁶ *Id.* at 2.

26 ⁷ See ASD Memorandum #137, ASD Rightsizing Recommendations at 1 (Feb. 17, 2026), attached as **Exhibit 2** to Motion for Judicial Notice.

families of Campbell STEM students. It explained that the recommendation to close Campbell STEM came after “a review of enrollment patterns, staffing, facility conditions, and operational costs across our schools.”⁸ And it informed families of the schedule for public hearings and testimony:

The School Board will review this recommendation on Tuesday, Feb. 17, beginning with a work session at 3 p.m. and a regular meeting at 6 p.m. The Board is scheduled to vote on Tuesday, Feb. 24, Families may provide public testimony on Feb. 17 at the regular meeting and submit written feedback before the vote on the 24th. Your voice and perspective are important.⁹

Under that schedule, members of the public were given 11 days to submit testimony for the School Board’s consideration.¹⁰

Campbell STEM families accepted ASD’s invitation to provide testimony on the proposed closure. At the February 17, 2026 School Board Meeting, the Superintendent of ASD gave an update regarding proposed budget cuts.¹¹ The Superintendent’s PowerPoint explained that consolidating Campbell STEM with other nearby elementary schools would save \$9 million in bond funds and \$2.2 million in school

⁸ See Anchorage School District, *Email re: “Rightsizing ASD Update; Please read”*, at 1 (Feb. 13, 2026), attached as **Exhibit 3** to Motion for Judicial Notice.

⁹ *Id.* at 2.

¹⁰ See also Complaint at IV.3 (“Defendants announced the closure . . . six *business* days after [sic] the vote” (Emphasis added)).

¹¹ See Anchorage School District FY 2026-27 Budget Update, PowerPoint (Feb. 17, 2026), attached as **Exhibit 4** to Motion for Judicial Notice.

1 bond debt reimbursement.¹² Consolidation would also increase utilization rates of other
2 neighborhood elementary schools to a more reasonable level.¹³

3
4 Over 110 community members spoke out against proposed budget cuts at the
5 February 17 School Board Meeting.¹⁴ The School Board extended the meeting until
6 midnight to allow additional testimony, and invited those who were unable to testify
7 within that extended timeframe to return to testify at the February 24, 2026 School
8 Board Meeting.¹⁵

9
10 On February 24, 2026, the School Board heard additional public testimony
11 against the closure of Campbell STEM.¹⁶ In addition to the significant oral testimony
12 provided by community members at the February 17 and February 24 School Board
13 Meetings, ASD also received approximately 143 written comments posted to the
14 agenda for the February 17 meeting and approximately 192 written comments posted
15 to the agenda for the February 24 meeting.¹⁷ The public testimony was overwhelmingly
16 opposed to any cuts to current programs.
17
18

19 ¹² See *id.* at 22.

20 ¹³ See *id.* (discussing how Willow Crest Elementary School would increase utilization
21 rate from 64% to 87%, Gladys Wood Elementary School would increase utilization rate from
22 62% to 80%, and Klatt Elementary School would increase utilization rate from 68% to 79%).

23 ¹⁴ School Board Meeting Minutes at 1–3 (Feb. 17, 2026), attached as **Exhibit 5** to Motion
24 for Judicial Notice.

25 ¹⁵ *Id.* at 2–3.

26 ¹⁶ School Board Meeting Minutes at 1 (Feb. 24, 2026), attached as **Exhibit 6** to Motion
for Judicial Notice.

¹⁷ See Written Comments Posted to the February 17, 2026 School Board Meeting Agenda,
attached as **Exhibit 7** to Motion for Judicial Notice; Written Comments Posted to the February
24, 2026 School Board Meeting Agenda, attached as **Exhibit 8** to Motion for Judicial Notice.

1 Unfortunately, public opposition to proposed cuts did not relieve ASD of its
2 legal obligation to find \$90 million in cost savings in order to pass a balanced budget
3 by the first Monday in March deadline. On February 24, 2026, after considering the
4 oral and written testimony, the School Board made the difficult decision to vote to close
5 Fire Lake Elementary School, Lake Otis Elementary School, and Campbell STEM
6 Elementary School at the end of the 2025/2026 school year.¹⁸ The School Board also
7 voted that day to relocate Tudor Elementary School's Montessori program to Denali
8 Montessori; change the school boundary to move non-immersion students at O'Malley
9 Elementary to Huffman Elementary; convert O'Malley Elementary School to an
10 alternative French immersion school; change the school boundary to move non-
11 immersion students at Government Hill Elementary School to Inlet View Elementary
12 School; convert Government Hill Elementary School into an alternative Spanish
13 Immersion school; and declare Abbott Loop Elementary School as excess to the
14 District's needs.¹⁹ After adopting the rightsizing measures, the School Board passed
15 the budget for the 2026-2027 school year.²⁰

16 Seven weeks after ASD passed its 2026-2027 school year budget, the
17 Foundation brought this lawsuit seeking a temporary restraining order and preliminary
18 injunction to stop the closure of Campbell STEM and force ASD to make alternative
19

20 ¹⁸ See **Exhibit 6** at 3.

21 ¹⁹ *Id.*

22 ²⁰ See *id.* at 3–4.

cuts to educational programs and staff.²¹ The Foundation complains that ASD failed to disclose methodology and data, provided inadequate and compressed notice, and limited public participation to one-directional testimony.²² The Foundation asserts an Open Meetings Act, procedural due process, and an administrative law arbitrary and capricious claim against ASD.²³

III. LEGAL STANDARD

In deciding a motion to dismiss for failure to state a claim under Civil Rule 12(b)(6), the Court generally treats all factual allegations in the Complaint as true.²⁴ However, “even on a motion to dismiss, a court is not obligated to accept as true ‘unwarranted factual inferences and conclusions of law.’”²⁵ Dismissal under Civil Rule 12(b)(6) is appropriate “where it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims that would entitle the plaintiff to relief.”²⁶

“If a party submits a motion to dismiss that relies on materials outside the pleadings, the superior court may either exclude the evidence or convert the motion into one for summary judgment.”²⁷ “In either event, the court must ‘expressly state whether

²¹ See Complaint at VII.

²² See *id.* at IV.5, V.I.3, V.III.4.

²³ See *id.* at V.

²⁴ See *Forrer v. State*, 471 P.3d 569, 583 (Alaska 2020).

²⁵ *Id.*

²⁶ *Lowell v. Hayes*, 117 P.3d 745, 750 (Alaska 2005) (internal quotation marks omitted).

²⁷ *Pedersen v. Blythe*, 292 P.3d 182, 184–85 (Alaska 2012).

[it has] in fact excluded or considered [outside] materials.”²⁸ But “[w]hether matters fall ‘outside the pleading’ depends on the nature of those matters—while courts may not generally consider affidavits on a motion to dismiss, ‘courts may consider materials . . . subject to ‘strict judicial notice,’” such as ‘statutes and regulations, [or] matters of public record.’”²⁹ Further, the Court may consider “[d]ocuments whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the pleading [when] ruling on a Rule 12(b)(6) motion to dismiss’ without converting the motion into one for summary judgment.”³⁰

IV. DISCUSSION

The Court should dismiss the Foundation’s Complaint for two separate and distinct bases. First, the Foundation’s claims and relief sought are nonjusticiable political questions. Second, each of the Foundation’s claims fail as a matter of law.

A. The Foundation’s Claim and Requested Relief is a Nonjusticiable Political Question

The Court must dismiss the Foundation’s Complaint because the claims and relief sought are nonjusticiable political questions.³¹ To adjudicate the Foundation’s

²⁸ *Id.* at 185 (alterations in original) (quoting *Martin v. Mears*, 602 P.2d 421, 426 (Alaska 1979)).

²⁹ *Forrer*, 471 P.3d at 584 (quoting *Pedersen*, 292 P.3d at 185; *Martin*, 602 P.2d at 426 n.6); *see also Alleva v. Municipality of Anchorage*, 467 P.3d 1083, 1087 (Alaska 2020).

³⁰ *Alleva*, 467 P.3d at 1088–89 (quoting *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994)).

³¹ *See Alaska Wildlife Alliance v. State*, 74 P.3d 201 (Alaska 2003) (“[T]he political question doctrine is more than jurisdictional and is instead a substantive basis for a dismissal.”).

claims would require the Court to elevate its policy judgment regarding the proper allocation of scarce education funds over the elected policy-making body tasked with the delegated constitutional duty to manage the public school system in Anchorage. The Alaska Supreme Court is clear that Alaska courts are prohibited from resolving such political questions,³² and has consistently held that claims like those at issue here seeking injunctive relief to require government entities to adopt different policy decisions are nonjusticiable political questions.³³

1. Alaska Courts Consider Six Factors When Analyzing Whether a Case Presents a Nonjusticiable Political Question, Any One of Which is Sufficient to Justify Dismissal

The separation of powers doctrine prohibits Alaska courts from reviewing nonjusticiable political questions.³⁴ Whether a claim is nonjusticiable requires the Court to determine “whether deciding the claim would require [the Court] to answer questions that are better directed to the legislative or executive branches of government.”³⁵ Alaska courts employ the test announced by the United States Supreme Court in *Baker v. Carr* to determine whether a case presents a nonjusticiable political

³² See *Sagoonick v. State*, 503 P.3d 777, 793 (Alaska 2022) (citing *Kanuk ex rel. Kanuk v. State, Dep’t of Nat. Res.*, 335 P.3d 1088, 1096 (Alaska 2014); *Abood v. Gorsuch*, 703 P.2d 1158, 1160 (Alaska 1985); *Malone v. Meekins*, 650 P.2d 351, 356 (Alaska 1982)).

³³ See, e.g., *Forrer v. Dep’t of Fish & Game, Bd. of Fisheries*, 579 P.3d 63, 68–73 (Alaska 2025); *Sagoonick*, 503 P.3d at 793–802; *Kanuk*, 335 P.3d at 1096–1103.

³⁴ *Forrer*, 579 P.3d at 68.

³⁵ See *Kanuk*, 335 P.3d at 1096 (citing *Alaska Wildlife Alliance v. State*, 74 P.3d 201, 207 (Alaska 2003)).

question.³⁶ Under *Baker*, at least one of the following six factors will be “prominent on the surface” and “inextricable” in a nonjusticiable political question:

[1] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [2] a lack of judicially discoverable and manageable standards for resolving it; or [3] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [4] the impossibility of a court’s undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [5] an unusual need for unquestioning adherence to a political decision already made; or [6] the potentiality of embarrassment from multifarious pronouncements by various departments on one question.³⁷

The Alaska Supreme Court is clear that “the remedy is a relevant consideration in the political question analysis.”³⁸

Only one factor need be present for a case to present a nonjusticiable political question. Here, the first three factors all counsel against granting the requested relief.

2. There is a Constitutional Commitment of the Issue to a Coordinate Political Department

The first *Baker* factor requires the Court to dismiss the Foundation’s Complaint. That factor asks whether there is a textually demonstrable constitutional commitment of the issue to a coordinate political department. Under Alaska law, the School Board is the political department that has been delegated the constitutional commitment to maintain the public school system in Anchorage.

³⁶ See *id.* at 1096–97.

³⁷ See *Sagoonick*, 503 P.3d at 793 (quoting *Baker v. Carr*, 369 U.S. 186, 217 (1962)).

³⁸ See *id.* at 794.

Article VII, Section 1 of the Alaska Constitution commands that “[t]he legislature shall by general law establish and maintain a system of public schools open to all children of the State.”³⁹ In *MacAuley v. Hildebrand*, the Alaska Supreme Court explained that Article VII, Section 1 gives the legislature “the continuing obligation to ‘maintain’ the system” and that “the provision is unqualified; no other unit of government shares responsibility or authority.”⁴⁰ *MacAuley* went on to explain that “the legislature has seen fit to delegate certain educational functions to local school boards in order that Alaska schools might be adapted to meet the varying conditions of different localities.”⁴¹ That delegation of constitutional authority to the School Board includes the authority to determine when to close a public school.⁴²

The Alaska Supreme Court has previously acknowledged that the Alaska Constitution’s delegation of management of the public schools to a coordinate political branch supports a nonjusticiable finding. In *Hootch v. Alaska State-Operated School System*, the Court declined to read in a constitutional requirement to open local schools explaining that to do so would be “a radical invasion by the judiciary into an area specifically delegated by the very provision in question to the legislature.”⁴³

³⁹ See Alaska Const. art. VII, § 1 (emphasis added).

⁴⁰ See *MacAuley v. Hildebrand*, 491 P.2d 120, 122 (Alaska 1970).

⁴¹ See *id.*; see also AS 14.12.020(b) (“Each borough or city school district shall be operated on a district-wide basis under the management and control of a school board.”).

⁴² *Tunley v. Municipality of Anchorage Sch. Dist.*, 631 P.2d 67, 77 (Alaska 1980) (“Given the broad managerial mandate of the school board . . . it is the school board which has the authority to decide whether schools should be closed.”).

⁴³ *Hootch v. Alaska State-Operated Sch. Sys.*, 536 P.2d 793, 804 (Alaska 1975).

1 The Court need look no further than the textually demonstrable constitutional
 2 commitment of the management of the public education system to a coordinate political
 3 branch to dismiss the Foundation's Complaint in its entirety.
 4

5 **3. There are No Judicially Discoverable or Manageable**
 6 **Standards to Determine Whether the School Board Acted in**
 7 **an Arbitrary and Capricious Manner When it Voted to Close**
 8 **Campbell STEM**

9 While only one *Baker* factor is required to find a nonjusticiable political
 10 question, the second *Baker* factor also requires dismissal. Under AS 14.14.060, .065,
 11 and .090, the School Board decides how to operate the school district and spend its
 12 budget. In *Tunley v. Municipality of Anchorage School District*, the Alaska Supreme
 13 Court held that "[g]iven the broad managerial mandate of the school board . . . it is the
 14 school board which has the authority to decide whether schools should be closed."⁴⁴
 15 While there are judicially discoverable and manageable standards for resolving the
 16 Foundation's Open Meetings Act and procedural due process claims, there are no such
 17 standards for resolving the Foundation's arbitrary and capricious claim.
 18

19 Title 14 of the Alaska statutes does not specify what factors the School Board
 20 should consider when deciding whether to close a school.⁴⁵ That is a political question
 21
 22

23
 24 ⁴⁴ *Tunley*, 631 P.2d at 77.

25 ⁴⁵ *Cf. Benavides v. State*, 151 P.3d 332, 336 (Alaska 2006) ("The fairness or wisdom of
 26 the policy, however, is not for a court to determine; we consider only compliance with the
 statute. . . . [W]e have held that '[i]t is not a court's role to decide whether a particular statute
 or ordinance is a wise one; the choice between competing notions of public policy is to be
 made by elected representatives of the people.'").

1 best left to the School Board—the elected body exercising the delegated constitutional
2 power to maintain the public school system.

3
4 **4. It is Impossible for This Court to Issue the Requested Relief**
5 **Without an Initial Policy Determination Clearly for**
6 **Nonjudicial Discretion**

7 Last but certainly not least, it would be impossible for this Court to issue the
8 requested injunction without an initial policy determination of a kind clearly for
9 nonjudicial discretion. In *Hootch*, the Alaska Supreme Court emphasized the
10 “nonjudicial nature of th[e] problem” of deciding whether to allocate funds to open
11 schools and explained “the decision as to when it is feasible to establish . . . schools is
12 peculiarly legislative and executive in nature.”⁴⁶ The same is true for deciding when to
13 close schools.

14
15 Here, it is impossible to grant the requested preliminary injunction without
16 requiring ASD to cut \$3.1 million in other staff and educational programming. Doing
17 so would elevate the Court’s policy judgment on educational priorities—untethered
18 from any judicially discoverable and manageable standards—over the elected policy-
19 making body charged with the constitutional duty of maintaining the public school
20 system in Anchorage. The Foundation’s claims and requested relief are nonjusticiable
21 political questions. The Court should dismiss the Foundation’s Complaint.
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⁴⁶ *Hootch*, 536 P.2d at 804.

B. If the Court Reaches the Merits, the Foundation’s Claims Fail as a Matter of Law

To be clear, the Court should not reach the merits of the Foundation’s claims. Those claims and the relief sought are nonjusticiable political questions. Nevertheless, each of the Foundation’s claims independently fails on the merits.

1. The Procedural Due Process Claim Fails Because There Is No Constitutionally Recognized Liberty or Property Interest in Attending the Individual School of One’s Choice

The Foundation’s procedural due process claim fails on its face. The Foundation’s members do not have a protected interest in attending Campbell STEM, dooming their procedural due process claim as a matter of law. A constitutionally protected property or liberty interest is a required element of a due process claim under both the United States and Alaska Constitution.⁴⁷

Courts that have considered the question have concluded that there is “no constitutionally cognizable property or liberty interest in attending the individual school of their choice.”⁴⁸ With no constitutionally cognizable property or liberty interest in attending Campbell STEM, the Foundation’s due process claim fails.

⁴⁷ See *City of Homer v. Campbell*, 719 P.2d 683, 684–85 (Alaska 1986); *Mullen v. Thompson*, 155 F. Supp. 2d 448, 451 (W.D. Pa. 2001); see also U.S. Const. amend. XIV (“No State shall . . . deprive any person of life, liberty, or property, without due process of law[.]”); Alaska Const. art. I, § 7 (“No person shall be deprived of life, liberty, or property, without due process of law.”).

⁴⁸ *Mullen v. Thompson*, 31 F. App’x 77, 80 (3d Cir. 2002) (rejecting a due process challenge to the closure of Pittsburgh public schools brought by students and their parents (citing *Mullen v. Thompson*, 155 F. Supp. 2d 448 (W.D. Pa. 2001))); see also *Pocono Mountain Charter Sch. v. Pocono Mountain Sch. Dist.*, 442 F. App’x 681, 687 n.5 (3d Cir. 2011) (affirming dismissal of students’ due process claim because “the students do not have a

1 It is important to note that this is a case about the due process right to attend the
 2 individual school of one's choosing; it is not a case where children are being denied the
 3 right to public education guaranteed by Article VII, Section 1 of the Alaska Constitution
 4 ("the Education Clause").⁴⁹ In *Hootch v. Alaska State-Operated School System*, the
 5 Alaska Supreme Court rejected secondary school-age children's argument that the
 6 Education Clause contains a right to attend school in their local community.⁵⁰ Rather
 7 the Court held that because the children could attend *some* school in Alaska, the
 8 children had been afforded the right to education guaranteed by the Alaska
 9 Constitution.⁵¹

12 Here, the closure of Campbell STEM does not deprive students of their ability
 13 to attend other neighborhood and optional public schools in the Anchorage School
 14 District. Thus, this case does not implicate the right to a public education, and there is

17 cognizable liberty or property interest in going to a school of their choice"); *Project Reflect,*
 18 *Inc. v. Metro. Nashville Bd. of Pub. Educ.*, 947 F. Supp. 2d 868, 880–81 (M.D. Tenn. 2013)
 19 (dismissing due process claims regarding closure of a charter school in part because neither
 20 parents nor students had a protected right to attend that specific school); *Ball v. Talladega*
 21 *County Sch. Sys.*, Case No. 1:24-cv-543-CLM, 2024 WL 3170392, at *6 (N.D. Ala. June 25,
 2024) ("Parents have not shown they have a constitutionally protected interest in sending their
 children to the public school of their choice, so they fail to show a deprivation of any such
 interest here.").

22 ⁴⁹ See *Hootch v. Alaska State-Operated Sch. Sys.*, 536 P.2d 793, 799 (Alaska 1975); see
 23 also Alaska Const. art. VII, § 1 ("The legislature shall by general law establish and maintain a
 24 system of public schools open to all children of the State, and may provide for other public
 25 educational institutions. Schools and institutions so established shall be free from sectarian
 control. No money shall be paid from public funds for the direct benefit of any religious or
 other private educational institution.").

25 ⁵⁰ See *Hootch*, 536 P.2d at 805.

26 ⁵¹ *Id.*

“no constitutionally cognizable property or liberty interest in attending the individual school of their choice.”⁵² The Foundation cannot succeed on the merits of its due process claim. The Court should dismiss the substantive due process claim.

2. The Foundation’s Open Meetings Act Fails Because the 11-day Notice Period Was Reasonable as a Matter of Law

The Foundation’s Open Meetings Act claim similarly fails on the merits. The Alaska Open Meetings Act, codified at AS 44.62.310, requires “reasonable public notice.”⁵³ The 11-day notice period at issue here was reasonable and accomplished the purposes of the Act: significant oral and written testimony was submitted by students, staff, parents, and members of the public for the School Board’s consideration before the vote to close Campbell STEM.

The Open Meetings Act does not specify a particular amount of notice that must be provided, and the courts have interpreted the statute as requiring a reasonable amount of notice to accomplish the Act’s purpose, in light of the circumstances. The Alaska Supreme Court has explained that “[t]he Alaska Open Meetings Act was enacted to provide the citizens with an opportunity to attend and participate in all agency meetings” and “[t]his opportunity is fostered specifically by the requirement that reasonable public notice be given to the public.”⁵⁴ In *Abood v. Gorsuch*, the Alaska Supreme Court held that four days was reasonable notice for the Governor to call a joint

⁵² *Mullen*, 31 F. App’x at 80.

⁵³ Alaska Stat. 44.62.310(e).

⁵⁴ *Hayes v. Charney*, 693 P.2d 831, 835 n.8 (Alaska 1985).

1 session of the Legislature.⁵⁵ And in *Gold Country Estates Preservation Group v.*
 2 *Fairbanks North Star Borough*, the Alaska Supreme Court held that seven days' notice
 3 before a site visit related to a zoning variance and subdivision application was
 4 reasonable.⁵⁶

6 The 11-day notice provided by ASD in the instant matter before voting to close
 7 Campbell STEM was reasonable. This conclusion is reinforced by regulations
 8 governing closure of rural schools. Alaska law only requires 10-days' notice before a
 9 rural school is closed, *i.e.*, the only school in a community.⁵⁷ Here, 11-days' notice was
 10 given before the School Board voted to close Campbell STEM, one of over 50
 11 elementary schools in ASD. The decision to close the only school in a community is
 12 inherently a more monumental decision than deciding to close one of over 50
 13 elementary schools in ASD. Given that a 10-day notice period is appropriate when a
 14 community's only school is being closed, the 11-day notice period here should be
 15 reasonable as a matter of law.

18 The only time that the Alaska Supreme Court has considered whether a school
 19 district provided sufficient notice before closing a school was *Tunley v. Municipality of*
 20 *Anchorage School District*.⁵⁸ There the Alaska Supreme Court held that a five-day

23 ⁵⁵ See *Abood v. Gorsuch*, 703 P.2d 1158, 1164 (Alaska 1985).

24 ⁵⁶ See *Gold Country Estates Preservation Group, Inc. v. Fairbanks North Star Borough*,
 270 P.3d 787, 796–97 (Alaska 2012).

25 ⁵⁷ See 4 AAC § 05.090; see *Tunley*, 631 P.2d at 77–78 (holding that 4 AAC § 05.090
 26 applies to local schools in rural Alaska, not the Anchorage School District).

⁵⁸ See *Tunley*, 631 P.2d 67.

1 notice period with no hearing or opportunity for public comment was insufficient and
2 remanded the matter.⁵⁹ *Tunley* explained “any closure decision should have been
3 preceded by a public school board meeting at which those potentially affected were
4 given sufficient notice in order to enable adequate preparation and presentation of their
5 views.”⁶⁰

7 The procedure employed in the instant matter addressed the procedural
8 shortcomings identified in *Tunley*. Here, ASD proposed closing Campbell STEM on
9 February 13, heard extensive public testimony on the proposed closure at a lengthy
10 public hearing on February 17, invited those who were unable to testify at the first
11 hearing before it was adjourned at 11:59 p.m. to return and testify on February 24,
12 considered over 300 written comments as part of the Board’s packets, and voted to close
13 Campbell STEM at a second public hearing on February 24. This provided an 11-day
14 notice period for the school closure, oral testimony at two different public hearings, and
15 significant written testimony. That notice was reasonable and accomplished the Open
16 Meetings Act’s purpose of allowing public participation in government meeting. The
17 Foundation’s Open Meetings Act claim should be dismissed.
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25 ⁵⁹ *Id.* at 81.

26 ⁶⁰ *Id.*

1 **3. The Elected School Board’s Vote to Close Campbell STEM is**
2 **Not an Agency Action Subject to an Arbitrary and Capricious**
3 **Challenge and is Time Barred**

4 The Foundation’s arbitrary and capricious claim fails as a matter of law for two
5 separate and distinct reasons. First, the School Board’s vote to close Campbell STEM
6 is not an administrative decision subject to an agency appeal and arbitrary and
7 capricious review. Second, even if the vote was subject to an arbitrary and capricious
8 challenge, the Foundation’s claim is time barred pursuant to Appellate Rule 602(a)(2).
9

10 Turning to the first ground for dismissal, the School Board’s vote to close
11 Campbell STEM was not an administrative decision subject to an agency appeal and
12 arbitrary and capricious review. It was instead the legislative act of a duly elected local
13 governing body. The School Board’s legislative policy decisions are subject to judicial
14 review for compliance with statutory or constitutional mandates under the traditional
15 review for compliance with statutory or constitutional mandates under the traditional
16 statutory and constitutional principles. They are not reviewable as agency decisions
17 under administrative law principles.
18

19 The School Board’s decision to close Campbell STEM as part of its budgeting
20 obligations was a legislative act, not an administrative one. The Alaska Supreme Court
21 made clear in *Tunley v. Municipality of Anchorage Sch. Dist.* that the Anchorage School
22 Board is a “legislative body with legal responsibilities which in important respects are
23 distinct from those exercised by the assembly.”⁶¹ The School Board’s status as an
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25

26 ⁶¹ *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)

independent legislative body is “nowhere...more apparent than in school system budgetary matters.”⁶² This legislative authority extends to “pupil assignment and attendance area determinations,” including decisions regarding “the closing of a school.”⁶³ These difficult budgetary decisions are “subject to statutory and constitutional restrictions,”⁶⁴ not to restrictions imposed by administrative law principles.

*Bruce v. School Dist. No. 60*⁶⁵ 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 evidence considered by the board supports a different decision than that reached by the board is insufficient to state a claim for relief.

(“[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.”).

⁶² *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.”).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ 687 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.”).

1 Here, the substance of plaintiffs' allegations of arbitrary and
2 capricious action and abuse of discretion is that under the Board's
3 express criteria, other schools within the district were better
4 candidates for closure than Thatcher. Under the principles set forth
5 above, these allegations were properly deleted from plaintiffs'
6 complaint.

7 The same analysis applies here. The Court should dismiss the arbitrary and capricious
8 claim.

9 Turning to the second ground for dismissal, to the extent the Foundation's
10 challenge could theoretically be characterized as the appeal of an administrative
11 decision, it is untimely. Appellate Rule 602(a)(2) required the Foundation to file suit
12 within 30 days of the administrative decision it was appealing. The Foundation did not
13 do so. The School Board voted to close Campbell STEM on February 24, 2026. The
14 Foundation filed suit 44 days later on April 8, 2026. The complaint is therefore
15 untimely as an administrative appeal. So the Foundation is not entitled to relief under
16 administrative law principles, including relief based on purportedly arbitrary and
17 capricious decision making.⁶⁶

18 **V. CONCLUSION**

19 For the foregoing reasons, ASD respectfully requests the Court dismiss the
20 Foundation's Complaint for failure to state a claim upon which relief may be granted.
21 The Foundation's claims and requested relief are nonjusticiable political questions
22

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25 ⁶⁶ See *Ballard v. Stich*, 628 P.2d 918, 921 (Alaska 1981) (30-day appeal deadline
26 applied because "the relief [plaintiff] is requesting is dependent upon a determination
that the underlying administrative proceedings were invalid.").

1 inappropriate for judicial resolution on the merits. Even if the Court were to reach the
2 merits of the Foundation's claims—it should not—each claim fails as a matter of law.
3

4 DATED at Anchorage, Alaska, this 7th day of May, 2026.

5 SCHWABE, WILLIAMSON & WYATT, P.C.
6 Attorneys for Defendant

7 By: 

8 Matthew Singer

9 Alaska Bar No. 9911072

10 msinger@schwabe.com

11 Peter Scully

12 Alaska Bar No. 1405043

13 pscully@schwabe.com

14 William C. G. Wright

15 Alaska Bar No. 2209074

16 wwright@schwabe.com
17
18
19
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21
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23
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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

[PROPOSED]
ORDER GRANTING MOTION TO DISMISS

THE COURT, upon consideration of Defendants' Motion to Dismiss dated May 7, 2026, and any opposition and reply thereto, hereby **GRANTS** the Motion to Dismiss.

In ruling on this Motion, the Court took judicial notice of the official public records identified in Defendants' Motion for Judicial Notice.

I. FACTUAL BACKGROUND

When ASD entered this year's budget planning process, it was faced with the difficult task of deciding how to cut \$90 million from an already stretched-thin budget while fulfilling its statutory duty to "provide for . . . an educational program for each school age child who is enrolled in or a resident of the district."¹ On February 9, 2026, the School Board directed the ASD Administration to identify school consolidation and

¹ Alaska Stat. § 14.14.090(2).

1 operational efficiency options to attempt to preserve student outcomes while achieving
2 cost savings.

3
4 In directing the ASD Administration to identify potential school consolidation
5 options, the School Board recognized that “underutilized elementary school facilities
6 [and] elementary schools with low enrollment levels . . . reduce the District’s ability to
7 consistently provide robust academic programs and student support services across all
8 schools” and that “strategic consolidation for FY27 and beyond would allow resources
9 to be combined to strengthen academic offerings, staffing models, and student
10 supports.” The School Board directed the administration, “to the extent feasible within
11 the compressed timeline, address academic impact, service level changes, enrollment
12 trends, transportation considerations, equity implications, and fiscal effects” when
13 making recommendations for the School Board’s consideration.
14
15

16 In response, the ASD Administration recommended closing three elementary
17 schools, including Campbell STEM Elementary School. On February 13, 2026, ASD
18 issued public notice that this rightsizing initiative included the proposed closure of
19 Campbell STEM Elementary. This notice included email notice from the ASD
20 Superintendent to the families of Campbell STEM students. It explained that the
21 recommendation to close Campbell STEM came after “a review of enrollment patterns,
22 staffing, facility conditions, and operational costs across our schools.” And it informed
23 families of the schedule for public hearings and testimony:
24
25
26

1 The School Board will review this recommendation on Tuesday, Feb. 17,
2 beginning with a work session at 3 p.m. and a regular meeting at 6 p.m.
3 The Board is scheduled to vote on Tuesday, Feb. 24, Families may
4 provide public testimony on Feb. 17 at the regular meeting and submit
written feedback before the vote on the 24th. Your voice and perspective
are important.

5 Under that schedule, members of the public were given 11 days to submit testimony for
6 the School Board's consideration.
7

8 Campbell STEM families accepted ASD's invitation to provide testimony on the
9 proposed closure. At the February 17, 2026 School Board Meeting, the Superintendent
10 of ASD gave an update regarding proposed budget cuts. The Superintendent's
11 PowerPoint explained that consolidating Campbell STEM with other nearby
12 elementary schools would save \$9 million in bond funds and \$2.2 million in school
13 bond debt reimbursement. Consolidation would also increase utilization rates of other
14 neighborhood elementary schools to a more reasonable level.
15
16

17 Over 110 community members spoke out against proposed budget cuts at the
18 February 17 School Board Meeting. The School Board extended the meeting until
19 midnight to allow additional testimony, and invited those who were unable to testify
20 within that extended timeframe to return to testify at the February 24, 2026 School
21 Board Meeting.
22

23 On February 24, 2026, the School Board heard additional public testimony
24 against the closure of Campbell STEM. In addition to the significant oral testimony
25 provided by community members at the February 17 and February 24 School Board
26

1 Meetings, ASD also received approximately 143 written comments posted to the
2 agenda for the February 17 meeting and approximately 192 written comments posted
3 to the agenda for the February 24 meeting. The public testimony was overwhelmingly
4 opposed to any cuts to current programs.
5

6 On February 24, 2026, after considering the oral and written testimony, the
7 School Board made the decision to vote to close Fire Lake Elementary School, Lake
8 Otis Elementary School, and Campbell STEM Elementary School at the end of the
9 2025/2026 school year. The School Board also voted that day to relocate Tudor
10 Elementary School's Montessori program to Denali Montessori; change the school
11 boundary to move non-immersion students at O'Malley Elementary to Huffman
12 Elementary; convert O'Malley Elementary School to an alternative French immersion
13 school; change the school boundary to move non-immersion students at Government
14 Hill Elementary School to Inlet View Elementary School; convert Government Hill
15 Elementary School into an alternative Spanish Immersion school; and declare Abbott
16 Loop Elementary School as excess to the District's needs. After adopting the
17 rightsizing measures, the School Board passed the budget for the 2026-2027 school
18 year.
19

20 Seven weeks after ASD passed its 2026-2027 school year budget, Plaintiff
21 Campbell STEM Preservation and Education Foundation brought this lawsuit seeking
22 a temporary restraining order and preliminary injunction to stop the closure of
23 Campbell STEM. The Foundation complains that ASD failed to disclose methodology
24
25
26

and data, provided inadequate and compressed notice, and limited public participation to one-directional testimony. The Foundation asserts an Open Meetings Act, procedural due process, and an administrative law arbitrary and capricious claim against ASD.

II. LEGAL STANDARD

In deciding a motion to dismiss for failure to state a claim under Civil Rule 12(b)(6), the Court generally treats all factual allegations in the Complaint as true.² However, “even on a motion to dismiss, a court is not obligated to accept as true ‘unwarranted factual inferences and conclusions of law.’”³ Dismissal under Civil Rule 12(b)(6) is appropriate “where it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims that would entitle the plaintiff to relief.”⁴

“If a party submits a motion to dismiss that relies on materials outside the pleadings, the superior court may either exclude the evidence or convert the motion into one for summary judgment.”⁵ “In either event, the court must ‘expressly state whether [it has] in fact excluded or considered [outside] materials.’”⁶ But “[w]hether matters fall ‘outside the pleading’ depends on the nature of those matters—while courts may not generally consider affidavits on a motion to dismiss, ‘courts may consider materials

² See *Forrer v. State*, 471 P.3d 569, 583 (Alaska 2020).

³ *Id.*

⁴ *Lowell v. Hayes*, 117 P.3d 745, 750 (Alaska 2005) (internal quotation marks omitted).

⁵ *Pedersen v. Blythe*, 292 P.3d 182, 184–85 (Alaska 2012).

⁶ *Id.* at 185 (alterations in original) (quoting *Martin v. Mears*, 602 P.2d 421, 426 (Alaska 1979)).

1 . . . subject to “strict judicial notice,” such as ‘statutes and regulations, [or] matters of
 2 public record.’”⁷ Further, the Court may consider “[d]ocuments whose contents are
 3 alleged in a complaint and whose authenticity no party questions, but which are not
 4 physically attached to the pleading [when] ruling on a Rule 12(b)(6) motion to dismiss’
 5 without converting the motion into one for summary judgment.”⁸

7 Here, the Court has considered the factual allegations in the Foundation’s
 8 Complaint, official public records of the relevant School Board Meetings, and the email
 9 notice to Campbell STEM families referenced in the Foundations’ Complaint and relied
 10 upon by the Foundation as an exhibit to its Emergency Motion for a Temporary
 11 Restraining Order, Preliminary Injunction and Limited Expedited Discovery.

13 **III. THE FOUNDATION FAILS TO STATE A CLAIM**

14 **A. The Foundation’s Claims and Requested Relief are Nonjusticiable**

15 The Court finds that the Foundation’s claims and requested preliminary
 16 injunction are nonjusticiable political questions. The separation of powers doctrine
 17 prohibits this Court from reviewing nonjusticiable political questions.⁹ Whether a
 18 claim is nonjusticiable depends on “whether deciding the claim would require [the
 19 Court] to answer questions that are better directed to the legislative or executive
 20 Court] to answer questions that are better directed to the legislative or executive
 21 Court] to answer questions that are better directed to the legislative or executive
 22 Court] to answer questions that are better directed to the legislative or executive
 23 Court] to answer questions that are better directed to the legislative or executive

24 ⁷ *Forrer*, 471 P.3d at 584 (quoting *Pedersen*, 292 P.3d at 185; *Martin*, 602 P.2d at 426
 25 n.6); *see also Alleva v. Municipality of Anchorage*, 467 P.3d 1083, 1087 (Alaska 2020).

26 ⁸ *Alleva*, 467 P.3d at 1088–89 (quoting *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir.
 1994)).

⁹ *Forrer v. Dep’t of Fish & Game, Bd. of Fisheries*, 579 P.3d 63, 68 (Alaska 2025).

branches of government.”¹⁰ To answer this question, Alaska courts look to factors identified in *Baker v. Carr*.¹¹ Under *Baker*, at least one of the following six factors will be “prominent on the surface” and “inextricable” in a nonjusticiable political question:

[1] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [2] a lack of judicially discoverable and manageable standards for resolving it; or [3] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [4] the impossibility of a court’s undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [5] an unusual need for unquestioning adherence to a political decision already made; or [6] the potentiality of embarrassment from multifarious pronouncements by various departments on one question.¹²

The Alaska Supreme Court is clear that “the remedy is a relevant consideration in the political question analysis.”¹³

Here, the Court finds that the first three factors are all prominent on the surface and inextricable in the Foundation’s arbitrary and capricious claim and requested preliminary injunction. The first and third factors are likewise prominent on the surface and inextricable in the Foundation’s Open Meetings Act and procedural due process claim. It is impossible for the Court to adjudicate the Foundation’s claims and grant injunctive relief without elevating its policy judgment regarding the proper allocation

¹⁰ See *Kanuk ex rel. Kanuk v. State, Dep’t of Nat. Res.*, 335 P.3d 1088, 1096 (Alaska 2014) (citing *Alaska Wildlife Alliance v. State*, 74 P.3d 201, 207 (Alaska 2003)).

¹¹ See *id.* at 1096–97.

¹² See *Sagoonick v. State*, 503 P.3d 777, 793 (Alaska 2022) (quoting *Baker v. Carr*, 369 U.S. 186, 217 (1962)).

¹³ See *id.* at 794.

of scarce education funds—without judicially discoverable and manageable standards to guide that policy judgment—over the judgment of the School Board (the democratically elected policy-making body tasked with the delegated constitutional duty to manage the public school system in Anchorage).

B. If the Foundation’s Claims were Justiciable, they Fail to State a Claim

Even if the Foundation’s claims were justiciable, the Foundation’s Complaint fails to state a claim upon which relief can be granted.

1. Procedural Due Process

The Foundation fails to state a procedural due process claim as a matter of law. A constitutionally protected property or liberty interest is a required element of that claim under both the United States and Alaska Constitution.¹⁴ While school-age children have a right to education under the Alaska Constitution, the students who currently attend Campbell STEM are not being denied that right under the planned closure; they will have the option to attend a different school within the Anchorage School District.¹⁵ Rather, the issue here is whether the Foundation’s members have a right to attend the individual school of their choice. Courts that have considered the

¹⁴ See *City of Homer v. Campbell*, 719 P.2d 683, 684–85 (Alaska 1986); *Mullen v. Thompson*, 155 F. Supp. 2d 448, 451 (W.D. Pa. 2001); see also U.S. Const. amend. XIV (“No State shall . . . deprive any person of life, liberty, or property, without due process of law[.]”); Alaska Const. art. I, § 7 (“No person shall be deprived of life, liberty, or property, without due process of law.”).

¹⁵ Cf. *Hootch v. Alaska State-Operated Sch. Sys.*, 536 P.2d 793, 804–05 (Alaska 1975) (holding the plaintiffs “have been afforded a right to education, although they are not furnished a right to attend secondary schools in their communities of residence. We cannot find that latter right mandated by the constitution, absent a valid equal protection claim.”).

question have concluded that there is “no constitutionally cognizable property or liberty interest in attending the individual school of their choice.”¹⁶

2. Open Meetings Act

Turning next to the Foundation’s Open Meetings Act claim, the Alaska Open Meetings Act requires reasonable notice under the circumstances.¹⁷ 4 AAC § 05.090, only requires 10 days’ notice before the closure of a rural school, *i.e.*, the only school in a village.¹⁸ The closure of the only school in a community is a more monumental event than the closure of one of over fifty elementary schools in the Anchorage School District. This strongly suggests the 11 days’ notice provided here by the Anchorage School District before voting to close Campbell STEM Elementary was reasonable under the circumstances. Further, the notice period allowed for oral testimony at two public hearings and significant written testimony prior to the Anchorage School

¹⁶ *Mullen v. Thompson*, 31 F. App’x 77, 80 (3d Cir. 2002) (rejecting a due process challenge to the closure of Pittsburgh public schools brought by students and their parents (citing *Mullen v. Thompson*, 155 F. Supp. 2d 448 (W.D. Pa. 2001))); *see also Pocono Mountain Charter Sch. v. Pocono Mountain Sch. Dist.*, 442 F. App’x 681, 687 n.5 (3d Cir. 2011) (affirming dismissal of students’ due process claims because “the students do not have a cognizable liberty or property interest in going to a school of their choice”); *Project Reflect, Inc. v. Metro. Nashville Bd. of Pub. Educ.*, 947 F. Supp. 2d 868, 880–81 (M.D. Tenn. 2013) (dismissing due process claims regarding closure of a charter school in part because neither parents nor students had a protected right to attend that specific school); *Ball v. Talladega County Sch. Sys.*, Case No. 1:24-cv-543-CLM, 2024 WL 3170392, at *6 (N.D. Ala. June 25, 2024) (“Parents have not shown they have a constitutionally protected interest in sending their children to the public school of their choice, so they fail to show a deprivation of any such interest here.”).

¹⁷ *See* AS 44.62.310(e).

¹⁸ *See Tunley v. Municipality of Anchorage Sch. Dist.*, 631 P.2d 67, 77–78 (Alaska 1980) (holding 4 AAC § 05.090 applies to local schools in rural Alaska, not the Anchorage School District).

Board's vote to close Campbell STEM. The Court finds the 11-day notice period was reasonable as a matter of law.

3. Arbitrary and Capricious

The Court further finds that the School Board's vote to close Campbell STEM Elementary School was not an administrative decision subject to an agency appeal and arbitrary and capricious review. It was instead the legislative act of a duly elected local governing body.¹⁹ The School Board's legislative policy decisions are subject to judicial review for compliance with statutory or constitutional mandates under the traditional statutory and constitutional principles. They are not reviewable as agency decisions under administrative law principles.²⁰

Here, the School Board's decision to close Campbell STEM Elementary School as part of its budgeting obligations was a legislative act, not an administrative one. Because the Foundation's Open Meetings Act and procedural due process claims fail as a matter of law, the Foundation is not entitled to the injunctive relief it seeks.

¹⁹ See *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.").

²⁰ See *Bruce v. School Dist. No. 60*, 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.").

1 Even if the School Board's vote to close Campbell STEM Elementary School
2 were an administrative act subject to an arbitrary and capricious challenge, that claim
3 is untimely. To the extent the Foundation's challenge is characterized as the appeal of
4 an administrative decision, Appellate Rule 602(a)(2) required the Foundation to file suit
5 within 30 days. The Foundation did not do so. The School Board voted to close
6 Campbell STEM on February 24, 2026. The Foundation filed suit 44 days later on
7 April 8, 2026. The complaint is untimely as an administrative appeal.
8
9

10 **IT IS HEREBY ORDERED** that the Foundation's Complaint for Injunctive
11 Relief is dismissed with prejudice.

12 DATED at Anchorage, Alaska, this ____ day of _____, 2026.
13
14

15 _____
16 Una S. Gandbhir
17 Superior Court Judge
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26

AK Trial Courts Court Name	PROOF OF SERVICE	3AN-26-06081CI Case Number
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I certify that I served the following document on the persons listed below:

Motion or Motion Related (NOT Proposed Order): Motion to Dismiss

Proposed Order: Proposed Order Granting Motion to Dismiss

Person Served	Service Address	Type	Service Date
Scott LeFebvre	scott@impc-law.com	e-Serve	05-07-2026 3:34:16 PM
Ingaldson Fitzgerald, P.C.		add304cc-f85d-403d-bbe3-dff9fed84b6e	
Matthew Singer	msinger@schwabe.com	e-Serve	05-07-2026 3:34:16 PM
Schwabe, Williamson & Wyatt, P.C.		7e40f840-37cc-45b5-a525-4a8be7ecb1dd	
Peter Scully	PScully@Schwabe.com	e-Serve	05-07-2026 3:34:16 PM
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Ingaldson Fitzgerald, P.C.		7223b98c-cf96-463d-86a3-9a47ae6fee4b	
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Schwabe		4f073532-ca7b-48e5-a715-4dede6c3ed4c	
William Wright	wwright@schwabe.com	e-Serve	05-07-2026 3:34:16 PM
Schwabe, Williamson & Wyatt		1855fca8-d1b7-40eb-ac02-aa86cd8685bf	

TrueFiling created, submitted and signed this proof of service on my behalf through my agreements with TrueFiling.

The contents of this proof of service are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

05-07-2026

Date

/s/Melissa Beneke

Signature

Wright, William (2209074)

Last Name, First Name (Attorney Number)

Schwabe, Williamson & Wyatt

Firm Name

