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SLIP OPINION NO. 2026-OHIO-3280

**THE STATE EX REL. AMES, APPELLANT, v. REVERE LOCAL SCHOOL DISTRICT
BOARD OF EDUCATION, APPELLEE.**

**[Until this opinion appears in the Ohio Official Reports advance sheets, it
may be cited as *State ex rel. Ames v. Revere Local School Dist. Bd. of Edn.*,
Slip Opinion No. 2026-Ohio-3280.]**

*Mandamus—Public-records requests—R.C. 149.43—Public office provided
public-records requester with all records in its possession responsive to
public-records request—Requester not entitled to writ directing public
office to comply with certain statutes and its own policies governing the
form in which its records must be maintained—Court of appeals’ judgment
granting public office’s motion for summary judgment affirmed.*

(No. 2025-1442—Submitted May 19, 2026—Decided August 26, 2026.)

APPEAL from the Court of Appeals for Summit County,
No. 31181, 2025-Ohio-4818.

The per curiam opinion below was joined by KENNEDY, C.J., and FISCHER,

DEWINE, BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ.

Per Curiam.

{¶ 1} Appellant, Brian M. Ames,¹ appeals the Ninth District Court of Appeals’ judgment granting summary judgment in favor of appellee, the Revere Local School District Board of Education, in his public-records mandamus action. The Ninth District ruled that Ames’s mandamus petition was moot because the board had provided the records he had requested. 2025-Ohio-4818, ¶ 13, 21, 26, 30 (9th Dist.). Three of Ames’s four propositions of law that he raises in his merit brief here do not address the Ninth District’s reasoning but instead challenge the board’s compliance with certain statutes and its own policies governing the form in which its records must be maintained. In his fourth proposition of law, Ames challenges the Ninth’s District’s ruling on an issue that he did not raise in his mandamus petition.

{¶ 2} For the reasons that follow, we affirm the Ninth District’s judgment.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Public-Records Request and Response

{¶ 3} At 2:39 a.m. on July 24, 2024, Ames emailed a public-records request to Richard Berdine, the treasurer of the school district. Ames requested “authentic copies of the following official records” of the board:

1. The rule for notification of meetings required by R.C. 121.22(F) in effect for the years 2023 and 2024.
2. The approved meeting minutes for the years 2023 and 2024.

1. In his petition, Ames admitted that he used a pseudonym when he made his public-records request and communicated with the treasurer of the Revere Local School District. For simplicity, we refer to him by his legal name.

3. The notices for special meetings held in the years 2023 and 2024.

4. The current records retention schedule (RC-2).

Ames instructed the treasurer to email the responsive records to him at the address he used to make his public-records request.

{¶ 4} At 11:17 a.m., the treasurer responded to Ames’s public-records request by email, stating:

In response to your . . . public records request, here is responsive information for each item:

1-Board policy 1.11 on District website (revereschools.org, Administration, then Board of Education, then Board Policy, then Chapter 1 Board of Education)

2-District website under Administration, then Board of Education

3-attached

4-Board policy 9.22 on District website.

To that email, the treasurer attached a zip file containing meeting notices for 12 special meetings held by the board in 2023 and 2024.

{¶ 5} At 1:03 p.m., Ames replied to the treasurer’s email, informing him that the responses he gave for item Nos. 2, 3, and 4 were inadequate. With respect to item No. 2, Ames asserted, “[T]he minutes posted on the website are not signed and are therefore not approved or official.” With respect to item No. 3, Ames stated, “[T]he notices do not include the notices of the work session[s] which are special meetings.” And with respect to item No. 4, Ames claimed, “Policy 9.22 is a policy for creating a records retention rather than a retention schedule.” To that

email, Ames attached an example of a form RC-2 for the Crestwood Local Schools that had been completed and filed with the Ohio History Connection.

{¶ 6} At 1:09 p.m., the treasurer responded to Ames by email, stating:

Those are the minutes in the form in which they are retained for District records, and have been Board approved. They are posted to the District website once approved by the Board. The work sessions are regular meetings of the Board, not special meetings. The records retention schedule begins on page 6 of the policy 9.22 on the District website. There are no further records responsive to any of these items.

B. Petition for a Writ of Mandamus

{¶ 7} The next day, July 25, 2024, Ames filed in the Ninth District a petition for a writ of mandamus against the board regarding his public-records request. He acknowledged having received a zip file containing 12 records responsive to item No. 3 in his request (the notices for special meetings held by the board in 2023 and 2024). But he alleged that the treasurer had not provided records responsive to his request for item Nos. 1, 2, and 4.

{¶ 8} Among other things, Ames attached to his petition copies of (1) Board Policy No. 1.11 (governing board meetings), (2) the minutes for the board's June 26, 2024 special meeting, and (3) Board Policy No. 9.22 (governing the schedule of records retention and disposal), each of which he stated had been "retrieved from the Board's website." In its answer to the petition, the board stated that the copies of those three records appeared to accurately reflect the board's records.

{¶ 9} Ames alleged that the treasurer had denied his public-records request by failing to provide records fully responsive to his request and failing to provide an explanation for why the request was denied. He further alleged that Ohio's

Public Records Act, R.C. 149.43, imposed a duty on the board to prepare and make copies of the records and make them available to him within a reasonable period but “placed no duty on a requestor (sic) to scour a website searching for the requested records and to guess whether or not they are responsive records.” Ames also challenged the form of some records made available to him, arguing that the minutes of the board’s meetings located on the school district’s website were not signed or approved as requested and that Board Policy No. 9.22 was not presented on form RC-2 or approved by the Ohio History Connection “as required by law.”

{¶ 10} Ames sought a writ of mandamus directing the board “to provide copies of the remainder of the public records [he] requested” and awards of statutory damages, attorney fees, and costs.

C. Motion for Summary Judgment

{¶ 11} After the board filed its answer, Ames filed a motion for summary judgment. In support of that motion, he submitted an affidavit verifying that he had personal knowledge of the facts stated in his motion and that they were “true and accurate to the best of [his] information, knowledge, and belief.”

{¶ 12} In his motion for summary judgment, Ames claimed that no documents responsive to his request for item Nos. 1, 2, and 4 were attached to the board’s response to his public-records request.² But while he admitted that he had obtained copies of Board Policy No. 1.11, the minutes for the board’s June 26, 2024 special meeting, and Board Policy No. 9.22 that the treasurer had directed him to find on the school district’s website, he argued that those records were not responsive to his public-records request because they were not presented in the

2. In his combined opposition to the board’s cross-motion for summary judgment and reply in support of his own motion for summary judgment, Ames conceded that there was no “live controversy” regarding his request for item No. 3. Therefore, any claims Ames previously made regarding his request for item No. 3 are moot. *See Paige v. Ohio High School Athletic Assn.*, 2013-Ohio-4713, ¶ 8 (1st Dist.) (“A case becomes moot if at any stage there ceases to be an actual controversy between the parties.”), citing *Miner v. Witt*, 82 Ohio St. 237 (1910).

form in which the board is required—either by statute or board policy—to maintain them.

D. The Board’s Opposition and Cross-Motion for Summary Judgment

{¶ 13} In its opposition to Ames’s motion for summary judgment and its cross-motion for summary judgment, the board claimed that (1) it had provided Ames with a link to the school district’s website with instructions to access the records responsive to his request for item Nos. 1, 2, and 4; (2) it does not maintain those responsive records in the formats requested by Ames; and (3) it had provided all records responsive to Ames’s public-records request. In support of its motion, the board submitted an affidavit from the treasurer, who attested to those claims.

{¶ 14} The board further asserted that under this court’s holding in *State ex rel. Mun. Constr. Equip. Operators’ Labor Council v. Cleveland*, 2020-Ohio-3197, ¶ 10-11, a public entity may satisfy its obligation to timely respond to a public-records request by providing a website link to responsive public records. On that authority, the board argued that it had complied with its obligation under R.C. 149.43 regarding Ames’s request for item Nos. 1, 2, and 4; that Ames’s request for a writ of mandamus was moot; and that the board was therefore entitled to judgment as a matter of law.

E. Ames’s Memorandum in Opposition to the Board’s Cross-Motion for Summary Judgment and Reply in Support of His Own Motion for Summary Judgment

{¶ 15} Ames filed a combined memorandum in opposition to the board’s cross-motion for summary judgment and reply in support of his own motion for summary judgment. But he did not challenge the board’s assertion that it had complied with his public-records request or dispute the treasurer’s averments that the board had no other records responsive to his request. Rather, Ames raised new arguments about why the records provided by the board were insufficient, incomplete, or nonresponsive to his request.

F. The Board's Reply in Support of Its Cross-Motion for Summary Judgment

{¶ 16} In its reply in support of its cross-motion for summary judgment, the board reiterated that it had complied with its obligation under R.C. 149.43 and that it had provided all records responsive to Ames's request for item Nos. 1, 2, and 4, thereby rendering Ames's claim for a writ of mandamus moot. Regarding item Nos. 1 and 4, the board noted that Ames had not demonstrated that any other responsive records exist and are being withheld. And regarding item No. 4, the board asserted that it could not be required to produce records that it does not have. Furthermore, regarding item Nos. 1 and 4, the board argued that Ames could not amend his petition to enlarge his claims in his summary-judgment briefing and that additional arguments regarding item No. 4 that Ames had attempted to raise in his opposition to the board's cross-motion for summary judgment were not appropriate in this public-records mandamus action.

G. The Ninth District's Judgment

{¶ 17} The Ninth District stated that the only issue before it was whether the board had provided Ames with the records he had requested. 2025-Ohio-4818 at ¶ 13 (9th Dist.). The court considered the parties' summary-judgment filings and found that the board had presented evidence that it had responded to Ames's public-records request by supplying him with directions to access Board Policy No. 1.11, the minutes of its meetings, and Board Policy No. 9.22 on the school district's website. *See id.* at ¶ 10, 13, 15, 17, 21, 27, 29-30.

{¶ 18} The Ninth District found that Ames had failed to refute the board's evidence that it had provided him with the records he had requested, and the court held that Ames's mandamus claims were moot. *See id.* at ¶ 13, 18, 20-21, 26, 30, 34. The court granted the board's motion for summary judgment and denied Ames's motion for summary judgment. *Id.* at ¶ 34. The court further denied Ames's request for an award of statutory damages, finding that Ames had not clearly and convincingly shown that the board had denied his public-records request

or otherwise failed to comply with its obligation under R.C. 149.43(B). *Id.* at ¶ 32, 34. The court also denied Ames’s requests for awards of attorney fees and costs because he had failed to include any argument in his brief explaining why he was entitled to either award. *Id.* at ¶ 33-34. The court added that Ames was not eligible for an award of attorney fees, because he was not represented by counsel. *Id.* at ¶ 33.

{¶ 19} Ames appealed to this court as of right under S.Ct.Prac.R. 5.01(A)(3).

II. ANALYSIS

{¶ 20} This court reviews de novo a court of appeals’ judgment granting summary judgment in a mandamus action. *State ex rel. Manley v. Walsh*, 2014-Ohio-4563, ¶ 17. Summary judgment is proper when an examination of all relevant materials filed in the action reveals that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Civ.R. 56(C). The nonmoving party may not rest on the mere allegations or denials of the pleadings but must instead respond by setting forth specific facts showing that there is a genuine issue for trial. Civ.R. 56(E). “A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party’s favor.” Civ.R. 56(C).

{¶ 21} R.C. 149.43(B)(1) requires a public office to make copies of public records available to any person on request and within a reasonable period. “Mandamus is an appropriate remedy to compel compliance with Ohio’s Public Records Act.” *State ex rel. Rogers v. Dept. of Rehab. & Corr.*, 2018-Ohio-5111, ¶ 5. To prevail on his claim for mandamus relief under the act, Ames must establish a clear legal right to the requested relief and a corresponding clear legal duty on the

part of the board to provide that relief. *Id.*

{¶ 22} “In general, providing the requested records to the relator in a public-records mandamus case renders the mandamus claim moot.” *State ex rel. Toledo Blade Co. v. Toledo-Lucas Cty. Port Auth.*, 2009-Ohio-1767, ¶ 14. A public office has no duty to produce a record that it does not possess. *See, e.g., State ex rel. Striker v. Smith*, 2011-Ohio-2878, ¶ 28. Furthermore, “[a] writ of mandamus cannot be issued to order [a public office] to produce records that do not exist.” *State ex rel. Ames v. Three Rivers Local School Dist. Records Comm.*, 2024-Ohio-2686, ¶ 10; *accord State ex rel. Hedenberg v. N. Cent. Corr. Complex*, 2020-Ohio-3815, ¶ 7 (“a writ of mandamus will not issue when the uncontroverted evidence shows that the requested documents do not exist”); *State ex rel. Lanham v. Smith*, 2007-Ohio-609, ¶ 15 (“Respondents have no duty to create or provide access to nonexistent records.”).

A. The Remedies Ames Sought in His Motion for Summary Judgment and Seeks in His First Three Propositions of Law Are Not Available in this Public-Records Mandamus Action

{¶ 23} Rather than seeking a writ of mandamus ordering the board to provide him with copies of the records he requested in the form in which the treasurer has averred that the board maintains them, Ames argues in his merit brief here that he is entitled to a writ directing the board to provide him with copies of the records he asked for in the form in which he asserts they are required—either by statute or board policy—to be kept.

{¶ 24} “Mandamus is a proper remedy to compel compliance with a public office’s duty [under R.C. 121.22(C)] to prepare, file, and maintain full and accurate meeting minutes.” *State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, 2021-Ohio-2374, ¶ 21. Mandamus may also be an appropriate remedy to compel a board of education to comply with other statutory duties. *See* R.C. 2731.01 (“Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board,

or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station.”). But in this case, Ames sought in his petition only to compel the board’s compliance with the Public Records Act. “[G]enerally, a plaintiff cannot enlarge [his or her] claims during the summary judgment phase of litigation and is limited to the allegations of [his or her] pleading.” *Kerns v. Hale*, 2023-Ohio-1175, ¶ 14 (4th Dist.), quoting *Williams v. AVI Food Sys., Inc.*, 2020-Ohio-5001, ¶ 12 (8th Dist.); accord *State ex rel. Gaylor, Inc. v. Goodenow*, 2010-Ohio-1844, ¶ 20 (a relator is not entitled to a writ of mandamus on a new claim when it does not timely amend the complaint to include the claim).

{¶ 25} Here, the board presented evidence that it had responded to Ames’s public-records request and provided Ames with all records in its possession that are responsive to his request. Ames did not challenge the material facts set forth in the board’s cross-motion for summary judgment and offered no evidence that the board possessed any other responsive records or otherwise denied his request. Instead, he objected to the form in which the responsive records are kept. For example, he argued in his summary-judgment motion that the board’s meeting minutes are not kept “in an official record book specified for that purpose” as required by Board Policy No. 1.11. He argued in his combined memorandum in opposition to the board’s cross-motion for summary judgment and reply in support of his own motion for summary judgment that the minutes were “incomplete” because they failed to include certain attachments that were referred to in the minutes. Ames also argued in his motion that Board Policy No. 9.22 regarding the board’s records-retention schedule was not responsive to his request for item No. 4 because it (1) was not presented on form RC-2, (2) did not bear the approvals of the Ohio History Connection or the state auditor, and (3) did not contain a column stating the procedure that the board must follow when disposing of records.

{¶ 26} On appeal, Ames does not challenge the Ninth District’s

determination that his mandamus claims were mooted by the board’s production of records responsive to his public-records request. Instead, he raises additional objections to the form of the records provided by the board and appears to seek a writ of mandamus directing the board to comply with certain statutes and its own policies governing the form in which its records must be maintained.

{¶ 27} Specifically, in his first three propositions of law, Ames asserts:

Proposition of Law No. 1: A court must order a public office to prepare and produce records that do not exist in response to a public records request if the public has a clear legal duty to prepare them.

Proposition of Law No. 2: A school district board of education has a clear legal duty to comply with and require its employees to comply with the policies it has established pursuant to R.C. 3313.20.^[3]

Proposition of Law No. 3: A school district board of education may not substitute its own records retention schedule for the records retention schedule established by the school district records commission pursuant to R.C. 149.41.

{¶ 28} In these propositions of law and the corresponding argument, Ames seeks to compel the board to create additional records that comply with the cited statutes. However, this court has held that arguments raised for the first time on appeal will not be considered by an appellate court. *State ex rel. Martin v. McCormick*, 2026-Ohio-568, ¶ 11, citing *State v. LaRosa*, 2021-Ohio-4060, ¶ 34,

3. R.C. 3313.20(A) provides that the board of education of a school district “shall make any rules that are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises.”

and *Portage Cty. Bd. of Commrs. v. Akron*, 2006-Ohio-954, ¶ 86.

{¶ 29} Moreover, the issue in this public-records mandamus action is not whether the board complied with certain statutes and its own policies governing the form in which its records must be maintained. Rather, the issue is whether the board provided Ames with the requested records. On the above-stated facts, Ames has failed to establish that any genuine issue of material fact exists to prevent his mandamus claims from being rendered moot.

B. Ames’s Fourth Proposition of Law Does Not Change the Outcome of this Case

{¶ 30} In his fourth proposition of law, Ames asserts that a court may not consider evidence attached to a relator’s reply to a respondent’s opposition to a motion for summary judgment but that it may consider evidence attached to a relator’s reply when the reply is combined with his or her opposition to a respondent’s cross-motion for summary judgment. In his argument in support of that proposition, Ames takes issue with what he characterizes as the Ninth District’s “fail[ure] to fully consider” his argument that the board’s meeting minutes did not satisfy his request for item No. 2 in his public-records request, because the minutes did not include certain attachments that were referred to in the minutes. The Ninth District found that “Ames did not raise this claim in his petition or in his initial merit brief on summary judgment,” and the court cited *State ex rel. Grounds v. Hocking Cty. Bd. of Elections*, 2008-Ohio-566, ¶ 24, for the proposition that it did not need to address arguments raised for the first time in a reply brief. 2025-Ohio-4818 at ¶ 20 (9th Dist.).

{¶ 31} Ames appears to argue in his merit brief here that *Grounds* has no application to this case, because he made his argument challenging the alleged deficiency of the board’s minutes in a single document that was *both* a memorandum in opposition to the board’s cross-motion for summary judgment and a reply in support of his own motion for summary judgment. But the fact remains

that Ames did not allege in his mandamus petition that the minutes of the board's meetings that were made available to him in response to his public-records request were deficient because they did not contain the attachments that were referred to in the minutes. And "Ohio Courts have repeatedly held that a [relator] is generally limited to the allegations in [his or her] pleading and cannot enlarge [his or her] claims in a memorandum in opposition to summary judgment." *Bryan v. Valley Care Health Sys. of Ohio*, 2016-Ohio-7156, ¶ 36 (11th Dist.), citing *Alden v. Kovar*, 2008-Ohio-4302, ¶ 72 (11th Dist.).

C. Ames Has Not Shown that He Is Entitled to Awards of Statutory Damages, Attorney Fees, or Costs

{¶ 32} In his mandamus petition, Ames sought awards of statutory damages, attorney fees, and costs. In the conclusion of his merit brief here, he requests an award of statutory damages in the amount of \$1,000, but he notes that he has not incurred attorney fees and does not mention costs. Ames has forfeited these claims by failing to advance any argument with respect to them in his merit brief. *See State ex rel. Tjaden v. Geauga Cty. Bd. of Elections*, 2024-Ohio-3396, ¶ 25, fn. 6 (concluding that an argument that was not developed or advanced in a party's merit brief was forfeited).

III. CONCLUSION

{¶ 33} For the foregoing reasons, we affirm the judgment of the Ninth District Court of Appeals granting the board's motion for summary judgment, denying Ames's motion for summary judgment, and denying Ames's requests for awards of statutory damages, attorney fees, and costs.

Judgment affirmed.

Brian M. Ames, pro se.

Squire Patton Boggs (US), L.L.P., Colin R. Jennings, and Ayako H. Russell,
for appellee.

SUPREME COURT OF OHIO
