

SHAHLA F.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR14-04

ORDER OF DISMISSAL

The State Board received an appeal challenging the decision of the Montgomery County Board of Education (local board) denying Appellant's request for a school transfer for her son.

The local board filed a Motion to Dismiss the appeal to the State Board based on untimeliness. COMAR 13A.01.05.02B(1) provides that an appeal to the State Board "shall be taken within 30 calendar days of the decision of the local board" and that the "30 days shall run from the later of the date of the order or the opinion reflecting the decision." An appeal is deemed transmitted within the limitations period if, before the expiration of the time period, it has been delivered to the State Board, deposited in the U.S. mail as registered, certified or Express, or deposited with a delivery service that provides verifiable tracking from the point of origin. COMAR 13A.01.05.02B(3).

The local board issued its decision on January 14, 2014. The local board's staff assistant mailed the decision to the Appellant on January 15, 2014. The attached cover letter advised Appellant her of her right to appeal to the State Board and stated that Appellant's "letter with a copy of the Decision and Order must be received by the State Board within 30 days of the date of the Decision and Order and should either be hand delivered or sent by certified mail."

The Appellant's appeal should have been transmitted to the State Board on or before February 13, 2014. Appellant did not transmit the appeal until March 14, 2014.

Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice. *See Scott v. Board of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983). The State Board has consistently applied this rule of law, dismissing appeals that have been filed one day late based on untimeliness. *Twu v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-11 (2001).

Appellant maintains that her appeal to the State Board was untimely because it took time to get copies of documents that she wished to submit in support of her appeal. Appellant attached two documents to her appeal to the State Board, a physician's letter dated October 14, 2013, and an email stream containing emails dated July 16, 2012 and June 7, 2011. Both items

have dates preceding the local board's decision and are a part of the local board appeal record. They provide no basis to excuse the Appellant's late filing of the State Board appeal.

Appellant also maintains that she filed late because she was confused by the different dates on the local board's decision, dated January 14, and the cover letter from the staff assistant, dated January 15. The one day differential between issuance of the decision and mailing it to the Appellant is of no consequence here. There was still ample time for Appellant to transmit her appeal to the State Board prior to the expiration of the filing deadline. Moreover, the cover letter clearly informed the Appellant that any appeal to the State Board "must be received by the State Board *within 30 days of the date of the Decision and Order*"

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day filing deadline, it is this 27th day of June, 2014 by the Maryland State Board of Education,

ORDERED, that the appeal referenced above be and the same is hereby dismissed.

MARYLAND STATE BOARD OF EDUCATION



Charlene M. Dukes
President