

JACKIE and ANTONIO F.

Appellants

v.

HOWARD COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR08-14

In this appeal, Appellants challenge the decision of the superintendent's designees denying their request for early entrance to kindergarten for their daughter. The local board has filed a Motion to Dismiss the appeal for failure to exhaust administrative remedies because Appellants never filed an appeal with the Howard County Board of Education.

State law sets forth the administrative procedure for resolving controversies and disputes involving the rules and regulations of the county board. Section 4-205(c)(3) of the Education Article requires that a matter must first be decided by the local superintendent and the local board of education before it is submitted to the State Board on appeal.

The State Board has held that an appellant must pursue and exhaust statutorily prescribed administrative remedies in the appropriate manner. *See Christine C. v. Montgomery County, Bd. of Educ.*, MSBE Order No. OR08-06; *Stewart v. Bd. of Educ. of Prince George's County*, 7 Op. MSBE 1358 (1998); *Jackson-Nesmith v. Charles County Bd. of Educ.*, 7 Op. MSBE 1320 (1998); *Hopkins v. Bd. of Educ. of Montgomery County*, 4 Op. MSBE 370 (1986).

Here, Marion Miller and Marie DeAngelis, the superintendent's designees, issued a final decision on the matter on June 12, 2008. That decision advised Appellants of their right to appeal to the local board in writing within thirty days of the postmark date on the letter conveying the decision. Instead of filing an appeal with the local board, on July 3, 2008, Appellants filed an appeal directly to the State Board. Thus, Appellants failed to exhaust the administrative remedies available to them.

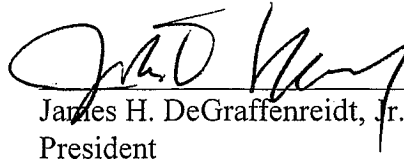
Appellants question the timing of the local board's Motion to Dismiss the appeal, which was submitted to the State Board after Appellants' thirty day window of opportunity to file an appeal to the local board had expired. The local board followed the rules with regard to that filing. It filed its Motion to Dismiss pursuant to the time frames set forth in the regulations which govern appeals to the State Board. *See* COMAR 13A.01.05.03A.

Therefore, finding that Appellants failed to appeal to the local board the decision of the superintendent's designees denying the request for early kindergarten entry, it is this 30th day of October, 2008, by the Maryland State Board of Education,

ORDERED, that the appeal referenced above be and the same is hereby dismissed for failure to exhaust administrative remedies. *See* COMAR 13A.01.05.03C(1)(a).

MARYLAND STATE BOARD OF EDUCATION

By:



James H. DeGraffenreidt, Jr.
President