

YVETTE J.

Appellant

v.

MONTGOMERY COUNTY BOARD OF  
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR09-05

ORDER OF DISMISSAL

The State Board received an appeal from the Montgomery County Board of Education's decision upholding the ten day suspension of Appellant's daughter and assigning her to an alternative program for the remainder of the 2008-2009 school year and the first semester of the 2009-2010 school year.

The local board filed a Motion to Dismiss the appeal 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 run from the latter of the date of the order or the opinion reflecting the decision." An appeal is deemed transmitted within the limitations period if it has been delivered to the State Board or deposited in the United States mail, as registered or certified, before the expiration of the time period. COMAR 13A.01.05.02B(3).

The local board issued its Opinion and Order in this case on July 27, 2009. The appeal should have been filed with the State Board by August 26, 2009, but it was not filed until August 28, 2009. Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice of the decree. *See Scott v. Board of Education of Prince George's County*, 3 Op. MSBE 139 (1983). The local board advised Appellant of her right to appeal the decision to the State Board within 30 days of the date of the decision. (King Letter, 7/28/09).

Appellant states that she inadvertently miscalculated the appeal deadline, most likely calculating from the July 28, 2009 date of the letter transmitting the decision to the Appellant. The Appellant maintains that she was under tremendous strain and pressure from personal difficulties related to her father's ailing health and matters involving her children around the time the filing was due. (Reply to motion).

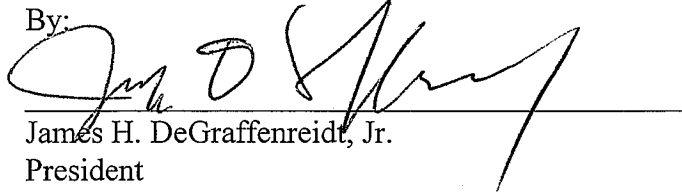
The Appellant prepared the appeal in a timely fashion. She states that she completed the appeal on August 24. (Reply to Motion at 3). Unfortunately, she believed that she had until August 28 to file the appeal. The letter transmitting the local board's decision was clear and unambiguous, however, that the local board issued its decision on June 27 and that an appeal of the decision would have to be received by the State Board within 30 days of that date. (King Letter, 7/28/09). Furthermore, even if the 30 day deadline were triggered by the date of Ms. King's July 28, 2009 letter, the appeal would have been due on or before August 27, 2009.

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline, it is this \_\_\_\_ day of December, 2009, by the Maryland State Board of Education,

ORDERED, that the appeal referenced above be and the same is hereby dismissed for untimeliness. *See* COMAR 13A.01.05.03C(1)(e).

MARYLAND STATE BOARD OF EDUCATION

By:

A handwritten signature in black ink, appearing to read "James H. DeGraffenreidt, Jr.", is written over a horizontal line. The signature is stylized and cursive.

James H. DeGraffenreidt, Jr.  
President