

NONNA A. and DYLAN C.,

Appellants

v.

HOWARD COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR10-09

ORDER OF DISMISSAL

The State Board received an appeal challenging the decision of the Howard County Board of Education (local board) dismissing Appellants' appeal because it was untimely filed with the local board. The Appellants had requested that their daughter be granted early admission into kindergarten for the 2010-2011 school year.

The local board has filed a Motion to Dismiss the appeal to the State Board based on the Appellants untimely filing of the initial appeal to the local board. Section 4-205(c)(3) of the Education Article, Annotated Code of Maryland, provides that "a decision of a county superintendent may be appealed to the county board if taken in writing within 30 days after the decision of the county superintendent."

On June 9, 2010, the Superintendent's Designees¹ collectively notified the Appellants that their early admission request was denied because their daughter's score on the criterion for early entry did not qualify her for early admission. The Designees advised the Appellants of their right to appeal their decision to the Howard County Board of Education "within thirty (30) calendar days of the postmarked date on the letter."² (Motion, Ex. 3).

The Appellants appealed the decision to the local board. Although the date on their letter of appeal is June 12, 2010, the local board did not receive it until July 19, 2010. (Motion Exs. 1 and 2). The local board denied the appeal because it was not filed within the thirty day filing time frame. (Motion, Ex. 1).

The appeal to the local board should have been filed by July 9, 2010, but Appellants did not file the appeal until July 19, 2010. 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). Accordingly, the State Board has declined to review matters that are untimely filed at the local level. *See Jeff and Jody Shaver v. Howard County Bd. of Educ.*, MSBE Op. No. 00-6 (2000); *Louis J. Brocato v. Board*

¹There were three Designees in this instance, two Administrative Directors of Elementary Schools and a Director of Elementary Curriculum Programs. (Motion, Ex. 3).

²Lacking any evidence to the contrary, we assume that the postmark date is the same as the date of the letter.

of Educ. of Baltimore County, MSBE Op. No. 97-32 (1997); *Jackson v. Frederick County Bd. of Educ.*, 6 Op. MSBE 838 (1995).

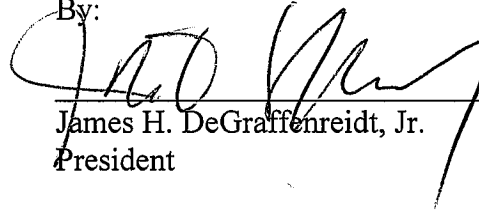
Despite being given the opportunity to do so, the Appellants failed to respond to the local board's Motion to Dismiss this case. In addition, at no time have the Appellants disputed the date the local board received their letter of appeal, nor have they explained the discrepancy between the date of their letter and the local board's receipt of it. The Appellants have simply not provided any explanation for their late filing.

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline for filing an appeal to the local board, it is this 26th day of October, 2010, by the Maryland State Board of Education,

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

MARYLAND STATE BOARD OF EDUCATION

By:

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

James H. DeGraffenreidt, Jr.
President