

BEVERLY C.,  
Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION  
Order No. OR14-13

ORDER

On September 20, 2014, Appellant filed this appeal with the State Board challenging the decision of the Montgomery County Board of Education (local board) dismissing as untimely filed Appellant's appeal of her request for her son to transfer to Damascus High School.

By letter dated June 2, 2014, Larry A. Bowers, the Chief Operating Officer and Superintendent's designee, advised Appellant that he was adopting the recommendation of the hearing officer and denying the transfer request. In that letter, he advised Appellant that in order to appeal his decision she needed to do so by writing to the local board "as soon as possible, but not later than 30 days from the date of this letter." (Motion, Ex.B).

Appellant's appeal to the local board was due on July 2, 2014. Appellant submitted her appeal to the local board by letter mailed on July 24, 2014. The date stamp on the letter indicates that it was received by the local board office on July 29, 2014. (Motion, Ex.C).

By letter dated August 1, 2014, the local board staff assistant advised Appellant that her appeal was submitted after the deadline specified in Policy BLB – *Rules and Procedures in Appeals and Hearings*. She provided Appellant the opportunity to explain why the appeal was not submitted by the deadline, noting that the explanation should include information about any bona fide emergencies or events that could not have been foreseen prior to the deadline. The staff assistant advised Appellant that the explanation "must be received by August 4, 2014" and that failure to respond by that deadline would subject the appeal to "dismissal without further proceedings." (Motion, Ex.D).

Appellant responded by letter received by the local board office on August 8, 2014. In her letter, she stated that she was aware that she had submitted the appeal late. She explained that she had received the CEO's letter on June 12th, and then left for a family vacation on June 15th. When she returned from vacation she pursued information from others who had been granted transfer requests and also sought letters in support of her appeal. After receiving a final letter of support on July 23, she mailed her appeal to the local board the following day. (Motion, Ex.E).

The local board dismissed the appeal based on untimeliness finding that Appellant's reasons for the late filing did not warrant an exception to the timeliness requirement. (Motion, Ex.A). The local board stated:

There is no evidence of fraud or lack of notice of the decision below; nor did [Appellant] present any bona fide emergency or other event that precluded a timely filing. While the taking of a family vacation during the summer months is understandable, the burden to initiate an appeal is not significant.

Section 4-205(c)(3) of the Education Article 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." 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 Educ. of Prince George's County*, 3 Op. MSBE 139 (1983). Accordingly, the State Board has consistently dismissed appeals that were untimely filed with the local board. *See Nonna A. and Dylan C. v. Howard County Bd. of Educ.*, MSBE Order No. OR10-09, and cases cited therein.

In addition, local board policy BLB states that an appeal to the local board shall be initiated by filing the appeal "within 30 days of the date of the superintendent's or designee's final action or decision adversely affecting the appellant." It further states that if the appeal is not filed within the 30 day period, "such failure shall constitute sufficient grounds for the [local board] to dismiss an appeal."

We agree with the local board that there is no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline. Thus, the local board's decision dismissing the appeal for untimeliness is not arbitrary, unreasonable or illegal.

Therefore, it is this 16<sup>th</sup> day of December, 2014 by the Maryland State Board of Education,

ORDERED, that the local board's decision is affirmed.

MARYLAND STATE BOARD OF EDUCATION



Charlene M. Dukes  
President