

SANDRA A.  
Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,  
Appellee

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION  
Order No. OR16-14

ORDER

Appellant challenges the decision of the Montgomery County Board of Education (“local board”) denying Appellant’s request for a change of school assignment for her son, S.A., to attend North Bethesda Middle School rather than his assigned school of Shady Grove Middle School (“Shady Grove”). Appellant initially requested the transfer based on child care issues and the desire for her son to attend school with his peers. The Division of Pupil Personnel Services and the interim superintendent’s designee both denied the request based on lack of a unique hardship. Prior to the local board issuing its decision, Appellant added that the transfer was necessary for medical reasons related to her child’s severe environmental and food allergies. She maintained that he needed to attend school close to her and her husband’s employment in the event they needed to reach him quickly in an emergency.<sup>1</sup>

In a decision issued June 27, 2016, the local board addressed the health issue stating that there was no evidence that the Appellant’s son ever required urgent medical care while he was at Wyngate Elementary School. It further stated that if he were to suffer a medical emergency at Shady Grove, either during school hours or at an after school program, staff would follow protocol by calling 911.

Appellant filed her appeal to the State Board on July 28, 2016. In response to the appeal, the local board filed a Motion to Dismiss 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 June 27, 2016. The cover letter attached to the local board’s decision advised Appellant of her right to appeal to the State Board and stated that Appellant’s appeal “must be made in writing . . . within 30 days of the date of the enclosed Decision and Order.” It further stated that “[t]o meet the 30-day deadline, State Board regulations, found in COMAR 13A.01.05.02B(3), require that your appeal, along with a copy of the Decision and Order, must be transmitted to the State Board on or before the 30th day following the date of the enclosed

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<sup>1</sup> The school health suite log provided by the Appellant in her State Board appeal demonstrates that S.A. was seen numerous times at the health suite for allergy related issues throughout his elementary career, most notably in grades 3 and 4 in school years 2013-2014 and 2014-2015, respectively. We point out, however, that the health suite log for the 2015-2016 school year shows no record of S.A. visiting the health suite for allergy related issues. (Appeal).

Decision and Order.” The cover letter stated the date of the Decision and Order and also explained the various methods for transmitting the appeal to the State Board. (King Letter, 6/28/16).


The Appellant’s appeal should have been transmitted to the State Board on or before July 27, 2016. Appellant did not transmit the appeal until July 28, 2016. With regard to the late filing, the Appellant has explained that she is very busy as “a mother of four with three jobs, attending school part time” and that she and her husband “do not have an administrative staff to retain documentation [and] coordinate deadlines . . . .” (Appellant’s Response to Motion).

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. *See Twu v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-11 (2001). Although the Appellant has explained why she did not file her State Board appeal on time, she has not demonstrated an extraordinary circumstance that would excuse it.

Therefore, it is this 27<sup>th</sup> day of September, 2016 by the Maryland State Board of Education,

ORDERED, that the appeal referenced above is hereby dismissed for untimeliness. *See* COMAR 13A.01.05.03C(2).

MARYLAND STATE BOARD OF EDUCATION



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Andrew R. Smarick  
President