

ADAM AND DAWN R. *ET AL*,

Appellants

v.

CARROLL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 12-40

OPINION

INTRODUCTION

Appellants, on their own behalf and on the behalf of several other parents, appealed the decision of the Carroll County Board of Education denying their request to move their children's bus stop. The local board filed a Motion to Dismiss.

FACTUAL BACKGROUND

In March 2011, the Appellants filled out a Carroll County Bus Stop Survey contending the bus stop at New Street and Route 30 ("Main Street") was on a busy road. The school system investigated the complaint. Because the bus stop was located on a local roadway with a posted speed limit of 20 miles per hour, was accessible by a sidewalk, and less than one mile from the Appellant's home, the school system decided not to move the bus stop. The Appellants appealed the decision to the Director of Transportation on July 27, 2011, maintaining that the Main Street stop was unsafe due to the traffic. After another investigation, the Director of Transportation determined the bus stop was safe.

On September 28, 2011, the Appellants appealed to the Superintendent, contending the bus stop was unsafe because a registered sex offender, who lives two blocks away from the Appellants, lives near the bus stop. They asked that the bus stop be moved into their neighborhood. The Superintendent's Designee reviewed the record, visited the bus stop, and walked the neighborhood. He upheld the decision not to move the bus stop to the neighborhood because the streets were too narrow for a full-length bus to traverse safely. He explained that the Appellants could utilize two other existing bus stops. Addressing the sex offender issue, he further explained that the Carroll County Public Schools was not dismissive of the Appellants' concerns, but parents needed to determine how much supervision to provide to their children at the bus stop.

The Appellants appealed to the local board, which examined two issues: whether the current bus stop was dangerous based on traffic conditions and whether the bus stop should be moved because a registered sex offender lives near the stop.

After examining the record and administrative regulations, the local board determined that the bus stop was not on a dangerous road. It also addressed the issue of the location of the sex offender. It noted a purpose of requiring sex offenders to register was so that the parents would know the offender's home address and be vigilant in supervising their children. It also noted that "registered sex offenders are free to walk and drive around their neighborhoods. So, to move a bus stop down the street in reality does not make a child safer." The local board's decision also cited the decision of the Maryland State Board of Education in *Benoit v. Carroll County Board of Education*, MSBE Op. No. 04-24(2004), which dealt with a bus stop located within a 5-mile radius of five registered sex offenders. The State Board explained that, "it is the parents' responsibility to provide supervision when a child walks to and from the bus stop."

The local board issued an Order upholding the Superintendent's Decision on December 15, 2011. (Ex. 1). It signed its Decision on January 11, 2012. (Ex. 2). The Decision was mailed January 12, 2012. (Ex. 3). The Appellants appealed that Decision to the State Board by letter dated February 1, 2012, but the State Board did not receive the letter until February 28, 2012.

STANDARD OF REVIEW

The State Board may dismiss an appeal if it is untimely filed. COMAR 13A.01.05.03C. The Board exercises its independent judgment on the record before it in the explanation and interpretation of its own regulations. COMAR 13A.01.05.05E.


ANALYSIS

The appeal in this case was filed 47 days after the local board ruled. Under State Board regulations, an appeal shall be taken within 30 calendar days of the decision of the local board. COMAR 13A.01.05.02B. The 30 days run from the later of the date of the order or the opinion reflecting the decision. *Id.* This Board has strictly applied the 30-day rule. *See C.T.L. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-18 (2010).

We note that the Appellants did not respond to the Motion to Dismiss for untimeliness or provide any reason for the lengthy delay in filing the appeal. Therefore, we dismiss this appeal for lack of timely filing.

CONCLUSION

The appeal is hereby dismissed.



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President

Mary Kay Finan

Mary Kay Finan
Vice President

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September 25, 2012