

L.A.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR10-02

ORDER OF DISMISSAL

The State Board received an appeal challenging the decision of the Montgomery County Board of Education (local board) to deny the Appellant's daughter entry to the Center Program for the Highly Gifted at Lucy V. Barnsley Elementary School.

The local board has 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 September 21, 2009. The appeal should have been filed with the State Board by October 21, 2009, but it was not filed until October 22, 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. Bd. of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983). The State Board has strictly applied this rule of law, and has dismissed appeals that have been filed a mere one day late based on untimeliness. *See Schwalm v. Bd. of Educ. of Montgomery County*, MSBE Op. No. 98-50 (1998); *Friedman v. Bd. of Educ. of Montgomery County*, MSBE Op. No. 98-41 (1998); *Duckett v. Bd. of Educ. of Montgomery County*, MSBE Op. No. 97-14 (1997).

The local board advised Appellant of her right to appeal the decision to the State Board within 30 days of the date of the local board's decision. (King Letter, 9/22/09). The Appellant has not provided any explanation for her late filing.

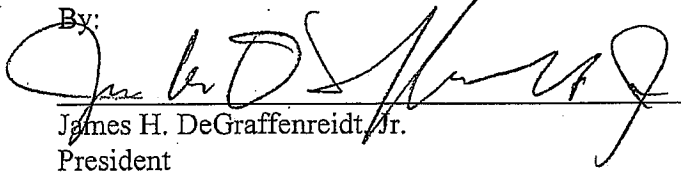
Therefore, finding no extraordinary circumstance that would merit an exception to the

mandatory thirty day deadline, it is this 23rd day of March, 2010, 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 cursive script, appearing to read "James H. DeGraffenreidt, Jr.", written over a horizontal line.

James H. DeGraffenreidt, Jr.

President