

JENNIFER H.,

Appellant

v.

CHARLES COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR14-11

ORDER

On September 17, 2014, Appellant filed this appeal challenging the decision of the Charles County Board of Education (local board) denying Appellant's daughter a transfer from John Hanson Middle School to Milton Somers Middle School. Appellant argued that the transfer was justified due to a unique hardship based on safety concerns about the number of sex offenders residing in close proximity to the daughter's bus stop, and the desire to have her daughter in the Milton Somers district where the student's before and after school care provider is located. Appellant explained that she and her husband have financial difficulties and the provider gives the Appellant a discounted rate because she also watches her other children.

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 upholding the denial of Appellant's transfer request on August 15, 2014.¹ The appeal should, therefore, have been filed with the State Board by Monday, September 15, 2014. It was not filed until September 17, 2014. 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. *Twu v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-11 (2001).

¹ We note that one of the bases for the local board's denial was lack of space at the requested school. The transfer policy does not allow transfers to schools lacking adequate space to accommodate additional students from outside of the attendance area. Superintendent's Rule 5126. The Office of Student Services had identified Somers as one such school.

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline, it is this 28 day of October, 2014 by the Maryland State Board of Education,

ORDERED, that the appeal is dismissed.

MARYLAND STATE BOARD OF EDUCATION



Dr. Mary Kay Finan
Vice President