

LARISSA HENDERSON,

Appellant

v.

BALTIMORE CITY BOARD OF SCHOOL
COMMISSIONERS,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 07-36

OPINION

In this appeal, Appellant challenges the Baltimore City Board of School Commissioners' (City Board) decision to close Harlem Park Middle School. The local board has filed a Motion to Dismiss for untimeliness. Appellant has submitted an opposition to the City Board's Motion to which the City Board has replied.

FACTUAL BACKGROUND

On March 28, 2006, the City Board voted on several recommendations regarding school closures and relocations in the Baltimore City Public School System (BCPSS). One of the schools that the City Board voted to close was Harlem Park Middle School #78 (Harlem Park Middle). (Meeting Minutes, 3/28/06, pp. 227-231). The City Board issued a written decision on the closing on May 30, 2006. (Baltimore City Board of School Commissioners Decision Regarding Proposed School Closings, Program Relocations, and Building Reconfigurations March 28 and April 6, pp. 14, 36-39).

Almost one year later, on February 27, 2007, the City Board again voted on several recommendations regarding school closures and relocations. At that time, the City Board voted to relocate Augusta Fells Savage Institute of Visual Arts #430 from the Southwestern High School building to the Harlem Park Campus, effective summer 2007. (Meeting Minutes, 2/27/07, pp. 257-265). The City Board issued a written decision on the relocation on April 18, 2007. (Baltimore City Board of School Commissioners' Written Decision Regarding School Closures and Relocations for the 2007-2008 School Year, pp. 10, 38-42). Although discussion during the February 27 meeting and in the corresponding April 18 written decision noted that the phasing out of Harlem Park Middle would continue,¹ the City Board's vote on February 27 was

¹The closure began in August 2006, with an expected two year phase out, ending in final closure by the summer of 2008. (Meeting Minutes, 3/28/06, pp. 227-231).

specific to the relocation of Augusta Fells Savage and the closure of the Southwestern building. (Meeting Minutes, p. 257, Written Decision, 4/18/07, pp. 10, 38).

Appellant filed an appeal with the State Board by certified mail postmarked May 29, 2007. Although Appellant's letter conveys her disagreement with the relocation of Augusta Fells Savage to the Harlem Park complex and the closing of BCPSS schools generally, the appeal purports to challenge the City Board's decision to close Harlem Park Middle School. As stated by Appellant in the opening of her letter, "With much thought, I am filing an appeal against the decision made to move forward with the removal of Harlem Park Middle School from the Harlem Park Complex." Appellant also states, "I want my middle school, Harlem Park Middle, to stay in this complex and not be moved" and "Harlem Park Middle must not move".

ANALYSIS

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 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 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).

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 Education 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 one day late based on untimeliness. *Hill & Butler v. Montgomery County Board of Education*, MSBE Op. No. 03-04; *Norman v. Howard County Board of Education*, MSBE Op. No. 03-37; *Residents of Hampshire Greens Community v. Montgomery County Board of Education*, MSBE Op. No. 05-13.

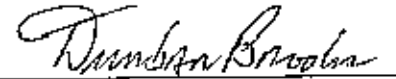
As already stated, Appellant appears to be appealing the local board's decision to close Harlem Park Middle School. The local board voted on that issue on March 28, 2006 and issued its written decision on May 30, 2006. Therefore an appeal of the local board's decision to close Harlem Park should have been filed with the State Board no later than June 29, 2006. Appellant did not file her appeal until May 29, 2007 – eleven months late. There is no evidence of fraud or lack of notice. Thus, Appellant's appeal was untimely filed.

Even if we were to assume that the local board's April 18, 2007 written decision revisited and reaffirmed the closing of Harlem Park Middle School, or if we were to conclude that Appellant was challenging the April 18 decision to relocate Augusta Fells Savage to the Harlem Park complex, an appeal of an April 18 decision should have been filed with the State Board no later than May 18, 2007. Appellant did not meet that deadline either. Thus, any such appeal is

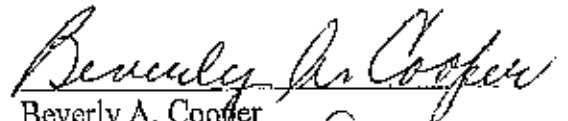
untimely.

CONCLUSION

Because Appellant failed to file her appeal to the State Board within the mandatory time limitations, we dismiss the appeal based on untimeliness.



Dunbar Brooks
President



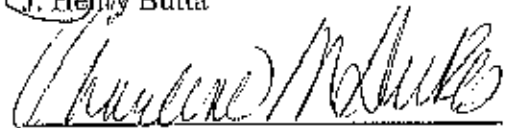
Beverly A. Cooper
Vice President



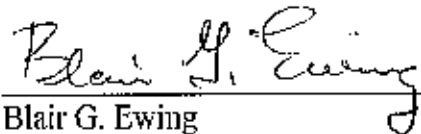
Lelia T. Allen



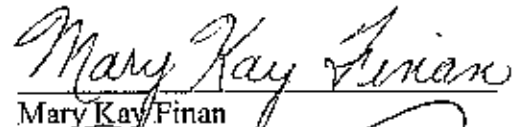
J. Henry Butta



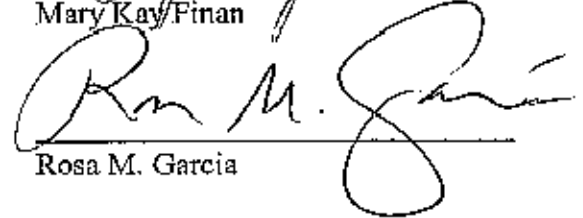
Charlene M. Dukes



Blair G. Ewing



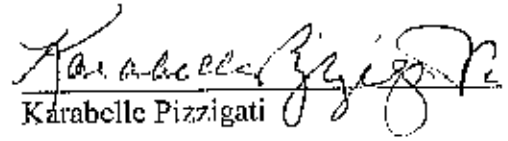
Mary Kay Finan



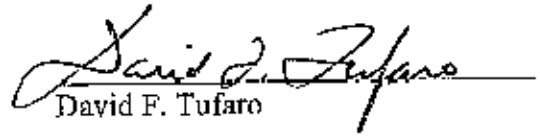
Rosa M. Garcia



Richard L. Goodall



Karabelle Pizzigati



David F. Tufaro

September 25, 2007