

ANDREW SMITH,

Appellant

v.

CARROLL COUNTY BOARD OF
EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 08-28

OPINION

INTRODUCTION

In this appeal, Appellant challenges that portion of the school redistricting in Carroll County that moves Spring Garden Elementary School students to Hampstead Elementary. The local board has filed a Motion to Dismiss the appeal for untimeliness and lack of standing. Appellant has submitted a reply to the local board's motion.

FACTUAL BACKGROUND

On October 10, 2007, the local board approved a redistricting plan referred to as the Ebb Valley Elementary/Northeast Area High School Boundary Adjustments. The redistricting was necessary to balance enrollment for two new schools in the northeast area of Carroll County - Ebb Valley Elementary School and Northeast Area High School. (10/10/07 Meeting Minutes, Addendum #1). Prior to the vote of the redistricting, there was significant citizen input over a series of meetings.

Among other things, the redistricting plan modified the boundary lines for certain elementary schools. Of relevance to this appeal are the boundary changes for Spring Garden Elementary School (Spring Garden). The redistricting moved the boundary between Spring Garden and Hampstead Elementary School (Hampstead) so that some students who were attending or were scheduled to attend Spring Garden were moved to Hampstead for the 2008-2009 school year. It is this element of the redistricting plan that the Appellant challenges.

The redistricting plan also moved Charles Carroll Elementary students to Ebb Valley Elementary. (*Id.* at 6). On November 14, 2007, the local board approved a motion to eliminate the Charles Carroll Elementary School students from the redistricting. The minutes from that meeting state the motion to amend the redistricting as follows:

Mr. Morse made a motion to amend the redistricting plan and the Charles Carroll students from the redistricting plan, seconded by Mrs. Foley. The motion to eliminate the Charles Carroll students carries through their school years. Also included are the affected East Middle and the Winters Mill High School students from that area.

The local board first voted on the motion to amend, which passed. The local board then voted "to approve the redistricting plan that ha[d] just been amended by the main motion." (11/14/07 Meeting Minutes, pp.1-2). The redistricting plan adopted on October 10 remained intact, except for those students residing in the Charles Carroll area who would now be able to remain at their existing schools. No other portion of the October 10 redistricting decision was modified.

ANALYSIS

This issue here is the timeliness of this appeal which was filed on December 13, 2007. The appeal challenges that portion of the redistricting plan related to Spring Garden and Hampstead schools. The local board approved the redistricting plan on October 10, 2007. It was on this date that the local board voted to adjust the attendance boundaries for Spring Garden and Hampstead.

An appeal to the State Board "shall be taken within 30 calendar days of the decision of the local board" and the "30 days shall run from the later of the date of the order or the opinion reflecting the decision." COMAR 13A.01.05.02B(1).

Appellant's appeal of the local board's decision to redistrict Spring Garden students should have been filed with the State Board no later than November 9, 2007. Appellant did not file the appeal until December 13, 2007, just over one month beyond the filing deadline.

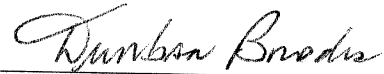
Appellant asserts, however, that his appeal was timely filed with the State Board because the filing deadline was December 14th, 30 days after the November 14th vote of the local board to amend the plan. He argues that the local board's November 14, 2007 decision reaffirmed the entire redistricting, as amended, and therefore started the running of the 30 day limitations period anew on that date.

We disagree. At its November 14 meeting, the local board made no change to that portion of the redistricting affecting the Spring Garden/Hampstead boundary, which is the subject of this appeal. The amendment on November 14 was limited to the Charles Carroll attendance area only. The local board voted to approve the amended redistricting plan to reflect this change. It did not reopen other areas of the redistricting plan that were approved on October 10, 2007.

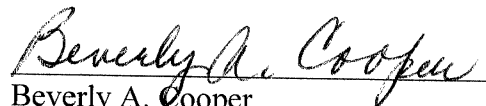
Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice. *See Scott v. Board of Education of Prince George's County*, 3 Op. MSBE 139 (1983). The State Board has strictly applied this rule of law and has dismissed appeals 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.

CONCLUSION

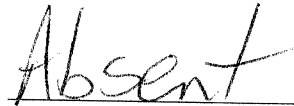
Because Appellant failed to file his appeal to the State Board within the mandatory time limitations, the appeal is dismissed.



Dunbar Brooks
President



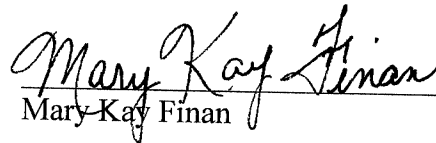
Beverly A. Cooper
Vice President



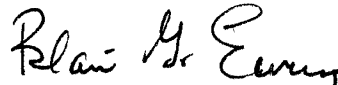
Lelia T. Allen

Abstains 

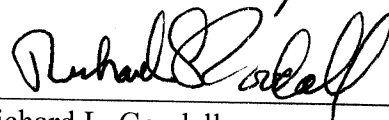
J. Henry Butta



Mary Kay Finan



Blair G. Ewing



Richard L. Goodall

Absent

Karabelle Pizzigati

David F. Tufaro

David F. Tufaro

DISSENT:

We dissent in the decision to dismiss this matter as untimely. It is our view that, when the local board amended the Redistricting Plan to eliminate the Charles Carroll Elementary School from the redistricting, it re-opened the whole Redistricting Plan for review. The elimination of one school from the Plan changes the balance of the whole plan, in our view. Thus, the Appellant would have standing to bring their appeal and we would find the appeal timely filed.

Charlene M. Dukes

Charlene M. Dukes

Rosa M. Garcia

Rosa M. Garcia

May 28, 2008