

ALTHEA Y.

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR08-16

ORDER OF DISMISSAL

In this appeal, Appellant challenges the decision of the Montgomery County Board of Education (local board) affirming the Chief Operating Officer's denial of her request for early entrance to kindergarten for her son. 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 9, 2008. The appeal should therefore have been filed with the State Board by October 9, 2008. It was not filed until October 14, 2008, the date the State Board received the appeal via regular mail delivery. 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. Board of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983).

The local board sent Appellant a copy of its Decision and Order under a cover letter dated September 10, 2008. The letter clearly informed Appellant of her appeal rights and the applicable time limitation. Appellant has not provided any reason for the late filing.

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline, it is this 17th day of December, 2008, 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 black ink, appearing to read "James H. DeGraffenreidt, Jr.", is written over a horizontal line. The signature is cursive and somewhat stylized.

James H. DeGraffenreidt, Jr.
President