

M. CHANEL P.

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR10-07

ORDER OF DISMISSAL

In this appeal, Appellant challenges the decision of the Montgomery County Board of Education denying the Appellant's son entry into kindergarten for the 2009-2010 school year.

The local board 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 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).

The local board issued its Opinion and Order in this case on February 17, 2010. The appeal should have been filed with the State Board by March 19, 2010, but it was not filed until March 29, 2010. 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).

In her Opposition to the Motion to Dismiss, the Appellant maintains that the late filing was due to issues related to the mailing of the local board's letter notifying her of the 30 day time frame for filing an appeal to the State Board.¹ (*See King Letter, 2/18/10*). Specifically, the Appellant states that the local board's cover letter "was subject to error or lateness of delivery due to huge responsibility of local United States Post Office to deliver mail of normal urgency." (sic). Appellant does not provide the date she received the letter or state that she received it without sufficient time to file her appeal by the deadline. She merely states that the United States Postal Service could have delivered it late or mis-delivered it because the Post Office is

¹The cover letter was attached to the local board's decision.

responsible for a lot of mail. This is insufficient to show lack of timely notice of the local board's decision.

The Appellant also argues that the local board's cover letter "was neither hand delivered nor delivered certified mail to ensure that the Appellant received notification in a timely manner . . ." The Appellant, however, fails to cite any requirement for hand-delivery or delivery by certified mail. Nor is there any such requirement.

The Appellant further maintains that she "sent the appeal letter to the State Board of Education in a timely manner in order for it to be received accordingly. . ." Yet the postmark date on the envelope containing the appeal is March 22, 2010. This demonstrates that the Appellant failed to place the appeal in the mail before expiration of the March 19 filing deadline.

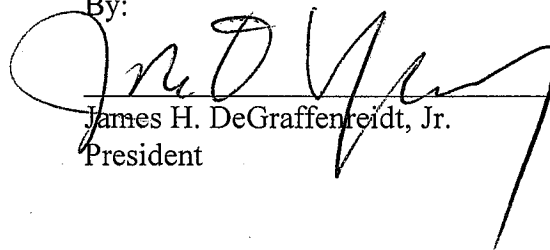
Given these facts, we conclude that Appellant has not shown any extraordinary circumstance that would override the time frame for filing an appeal.²

Therefore, it is this 24th day of August, 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:



James H. DeGraffenreidt, Jr.
President

²We note that it was not readily apparent from the record that the local board had issued a decision in the Appellant's case. We requested that Appellant submit a copy of the local board's decision to the State Board by April 9, 2010. Appellant untimely submitted the additional information on April 19. Even if the Appellant had filed the additional information by April 9, it would not have excused the initial late filing of her appeal.