

RONALD S.,

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR11-03

ORDER OF DISMISSAL

The State Board received an appeal challenging the decision of the Montgomery County Board of Education (local board) denying the Appellant's daughter a transfer to Cashell Elementary School.

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 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 September 16, 2010. The appeal should have been filed with the State Board by Monday, October 18, 2010,<sup>1</sup> but it was not filed until October 26, 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. Board of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983).

Although the local board advised the Appellant of his right to appeal the decision to the State Board within 30 days of the date of the local board's decision (King Letter, 9/17/10), the Appellant failed to timely file the appeal. The Appellant acknowledges his failure to adhere to the filing deadline in his October 26 cover letter accompanying the appeal. He states as follows:

The deadline to file the appeal appears to be October 17, 2010 (30 days after the date of Montgomery County Board of Education's denial of the appeal). Due to an inadvertent calendaring mistake, we believed that the due date was today. After speaking with someone at the State Board of Education, we understand that the

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<sup>1</sup>Because the 30<sup>th</sup> day fell on Saturday, October 16, the last day to file the appeal was the following Monday. *See* COMAR 13A.01.05.02B(4).

Board will nevertheless consider the appeal as timely in light of these extenuating circumstances.

(Appeal Cover Letter, 10/26/10). The Appellant essentially states the same in his response to the local board's Motion to Dismiss. He also claims that he was delayed in filing the appeal because he was awaiting information that he requested from the school system. (Appellant's Letter, 12/20/10).

We have attempted to verify the Appellant's claim that State Board staff advised him that the appeal would be considered timely filed. We have not been able to verify that anyone at the State Board office advised the Appellant so. Nor is it State Board practice to review appeal documents at the time of filing for conformance to the filing deadline or to issue proclamations regarding such. It is practice, however, to accept whatever documents an appellant has filed, whether timely or not, and process the appeal for a later determination by the State Board.

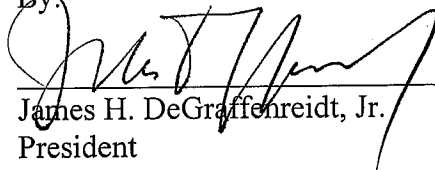
For many years, this Board has strictly applied the rule about timely filing of an appeal. We excuse untimely filing for only the most exceptional circumstances. An "inadvertent calendaring mistake" is not one of them. Nor is waiting for information a basis to disregard the deadline. In addition, what the Appellant believes he was told when he submitted his appeal does not act as a waiver of the timely filing requirement.

Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty day deadline for filing an appeal to the local board, it is this 25<sup>th</sup> day of January, 2011, by the Maryland State Board of Education,

ORDERED, that the appeal referenced above be and the same is hereby dismissed based on untimeliness.

MARYLAND STATE BOARD OF EDUCATION

By:



James H. DeGraffenreidt, Jr.

President