

T.A.,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-27

OPINION

INTRODUCTION

Appellant, T.A., appeals the decision of the local board denying her request for a rehearing of its decision denying a change in school assignment (“COSA”) request and three complaints from the public. The local board filed a response seeking dismissal for untimeliness of the appeal of its earlier decision and affirmance of the rehearing denial decision. Appellant filed a response, and the local board filed a reply.¹

FACTUAL BACKGROUND

Appellant’s daughter, Student X is enrolled in [REDACTED] High School (“School A”) for the 2024-2025 school year. During the 2024-2025 school year, Appellant filed a COSA request for Student X to attend a different school and three complaints from the public (“CFP”) requesting a grade change, asserting allegations of bullying behavior by three Montgomery County School System (“MCPS”) personnel towards Student X, and to request certain changes in Student X’s attendance and grade reports for the 2023-2024 school year. R. 85 -105.

On October 23, 2024, MCPS Hearing Officer, Mr. Cabell W. Lloyd, who was appointed to review the Appellant’s appeal of the COSA denial, determined that her request did not comply with Board Policy JEE, *Student Transfers*, because problems that are common to large numbers of families do not constitute a unique hardship and the submitted evidence did not prove her daughter had a “significant health issue with unique care requirements (e.g.: frequent medical appointments far from the student's home school and/or the parent/guardian's work location).” (R. 36).

On November 11, 2024, MCPS Hearing Officer, Mr. Albert R. Mangiacapra, who was appointed to review the Appellant’s appeal of Director Murray’s denial of her CFP determined that each of the three raised complaints were properly addressed in accordance with Regulation KLA-RA, *Concerns, Complaints and Appeals to the Superintendent of Schools*. In summary, the hearing officer concluded, after conducting an impartial second-level investigation, that the

¹ Appellant submitted an additional filing on May 8, 2025 that is not permitted under COMAR 13A.01.05.03 and we do not accept it as part of the record.

Appellant presented no evidence to contradict the investigative findings concerning alleged inaccurate student records in Student X's file, and alleged bullying, micromanaging or controlling Student X. (R. 37 – 41).

On November 20, 2024, Appellant filed an appeal to the local board of the hearing officer decision. (R. 42 – 44). The local board issued a decision dated February 4, 2025² which provided as follows in response to each of Appellant's claims:

Issue I - Attendance Records are Inaccurate.

MCPS updated Student X's attendance records in response to documentation the Appellant provided to excuse Student X's absences and that there was no evidence to support the Appellant's other assertions about alleged inaccurate records.

Issue II - Hearing Officer did not fully address academic discrepancies and ignored bullying claims.

Student X was provided an opportunity to complete an alternative assessment; this assessment was graded and a rationale for the grade was provided and the investigation revealed there was no evidence of bullying by MCPS staff. MCPS Regulation KLA-RA requires concerns related to the implementation of accommodations under Section 504 must be addressed through designated dispute resolution process under federal law.

Issue III - Decision Making Process Lacked Transparency.

Appellant was provided with due process as the claims were reviewed at three levels and the hearing officer spoke with Appellant and reviewed her documentation and found no evidence of any violation of any applicable local board policy or regulation.

Issue IV - Appellant's COSA request was properly denied as Appellant did not provide any evidence of bullying at school A and any challenges Student X may experience walking to school due to Student X's undocumented health issues would only be exacerbated by a transfer to school B as it would require Student X to walk an additional two miles.

(R. 49 – 58).

The local board advised Appellant in a letter dated February 5, 2025 accompanying its February 4, 2025 decision, that any appeal from its decision must be made to the State Board within 30 days of the date of the decision. (R. 49). The deadline for Appellant to submit an appeal of the local board's decision was March 6, 2025.

On February 6, 2025, Appellant filed a request with the local board "to reconsider its decision to ensure a fair and just resolution for [Student X's] education and well-being." R. 59 – 74. Local Board Policy does not contain a provision for a motion for reconsideration and the local board treated Appellant's motion as a motion for a rehearing. Appellant presented no new facts that were not considered by the local board. On March 20, 2025, the local board informed

² The parties state that the local board decision is dated February 5, 2025 but we think this is a typographical error and this fact is not material.

Appellant that it voted unanimously to deny her request for a rehearing under Local Board Policy BLB, *Rules of Procedure in Appeals and Hearings*. (R. 75).

On March 21, 2025, Appellant filed an appeal to the State Board of the local board's March 20, 2025 decision denying the rehearing. In her appeal, Appellant asks the State Board to order the local board to:

1. Conduct an independent review of the evidence and procedural concerns to ensure a fair and unbiased decision.
2. Immediately rectify the inaccuracies in Student X's academic and attendance records to reflect her true educational history.
3. Conduct an independent evaluation of MCPS's implementation of Student X's Section 504 plan to ensure compliance with federal and state mandates.
4. Provide a detailed, evidence based explanation for the initial denial, addressing each substantive concern raised.

STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

Appeal of February 4, 2025 Local Board Decision is Dismissed for Untimeliness

The local board in its response to the March 21, 2025 appeal filed a motion to dismiss any appeal of the February 4, 2025 local board decision as untimely filed by Appellant. Although Appellant's March 21, 2025 appeal to the State Board is framed as an appeal of the local board's denial of her rehearing request, the four issues she raises appear to relate to the local board's February 4, 2025 decision. Accordingly, because the substance of her appeal appears to concern the February 4th decision, we will first consider whether Appellant timely appealed that decision.

Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice. COMAR 13A.01.05.04B(3); *See Scott v. Board of Educ. of Prince George's Cnty.*, 3 Ops. MSBE 139 (1983). The State Board has consistently applied this rule of law and has dismissed appeals that have been filed one day late based on untimeliness. *See Lee v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Order No. OR22-02 (2022); *Cathy G. v. Montgomery Cnty. Bd. of Educ.*, MSBE Order No. OR17-04 (2017) and cases cited therein.

The local board issued its decision affirming the hearing officer's decision on February 4, 2025, and sent the decision to the Appellant the next day by email. The cover letter advised the

Appellant that she could appeal the local board's decision by submitting an appeal in writing to the State Board "within 30 days of the date of the enclosed Decision and Order" and provided the various methods by which the appeal could be submitted.

A timely appeal to the State Board would have been filed by March 6, 2024, unless there were extraordinary circumstances. COMAR 13A.01.05.04B(3). The State Board decisions rigidly apply the time period and only diverge if there are extraordinary circumstances. Because her appeal to the State Board of the issues decided by the local board on February 4th was not filed, at the earliest, until March 21, 2025, the appeal of that local board decision is untimely.

We next consider if there are any extraordinary circumstances that would justify an exception to the 30-day filing deadline. Appellant maintains that she filed her appeal late due to lack of internet connectivity, lack of stable housing, and lack of full contact information. While the State Board is sympathetic to the Appellant's circumstances, she fails to address why she was able to file a request for a rehearing with the local board in a timely manner during this same time period but not file an appeal with the State Board as directed in the local board's decision. Therefore, we find that Appellant has failed to show extraordinary circumstances that would justify an exception to the mandatory 30-day deadline.

Local Board Policy BLB provides for a rehearing of any action of the local board. However, the policy makes clear that "[u]nless otherwise ordered, neither the rehearing nor the application for a rehearing shall stay the enforcement of the order or excuse the persons affected by it for failure to comply with its terms." Appellant's request for a rehearing of the local board's decision did not stay the 30-day time period under the State Board regulations for seeking appeal.

Accordingly, we dismiss the appeal of the February 4, 2025 decision as untimely under COMAR 13A.01.05.03B.

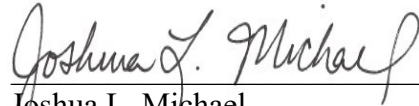
Appeal of March 20, 2025 Local Board Decision


The sole issue properly before the State Board on appeal is whether the local board decision on March 20, 2025 denying rehearing of its earlier decision was arbitrary, unreasonable, or illegal. Local Board Policy BLB at section B(5)(q)(3) provides any action for a rehearing "shall lie in the sole discretion of the Board" and the local board "may consider facts not presented in the original hearing, including facts arising after the date of the original hearing."

In her request for the rehearing, Appellant failed to allege any new facts arising after the date of the hearing. Appellant raised no facts that were unknown to the local board at the time of that decision. As the local board policy vests the local board with "sole discretion" in its decision making, and we find there were no new facts that call into question the local board's decision, we find that Appellant has failed to meet her burden to demonstrate the local board's discretionary denial of her rehearing request was arbitrary, unreasonable, or illegal.

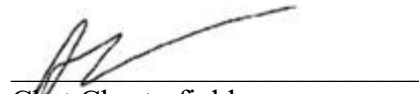
CONCLUSION

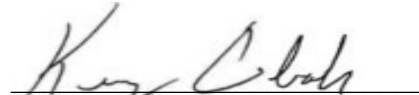
For the reasons stated above, we affirm the March 20, 2025 decision of the local board decision denying Appellant's request for a rehearing and dismiss the appeal of the local board decision of February 4, 2025 for untimeliness pursuant to COMAR 13A.01.05.03B.


Joshua L. Michael
President


Monica Goldson
Vice-President

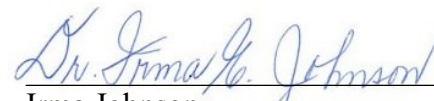

Chuen-Chin Bianca Chang

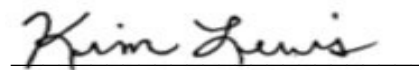

Chet Chesterfield



Kenny Clash


Clarence Crawford


Nick Greer


Irma Johnson


Kim Lewis



Samir Paul

Absent:
Joan Mele-McCarthy
Rachel McCusker
Xiomara Medina

June 24, 2025