

JATIN W.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 17-14

AMENDED ORDER

On July 12, 2017, Appellant filed this appeal with the State Board challenging the decision of the Montgomery County Board of Education (local board) dismissing as untimely filed Appellant's appeal of the denial of his son's admission to the Mathematics/Science/Computer Science Magnet Program at Takoma Park Middle School.¹ (Motion, Ex. 2B).

By letter dated February 13, 2017, Appellant appealed the denial to the Chief Academic Officer, Dr. Maria V. Navarro, acting as the Superintendent's Designee. (Motion, Ex. 3). By letter dated April 24, 2017, Dr. Navarro advised the Appellant that his son would not be admitted to the Takoma Park magnet program, but that he would be placed in the wait pool. The letter advised that any further appeal of the decision would have to be in writing and filed with the local board "no later than thirty (30) calendar days from the date of [Dr. Navarro's] letter." (Motion, Ex. 6).

Appellant's appeal to the local board was due on Wednesday, May 24, 2017. Although the appeal was dated May 22 and was postmarked May 27, the local board did not receive it until May 31, 2017. (Motion, Ex. 7). By letter dated May 31, 2017, Suzann M. King, Staff Assistant to the local board, informed the Appellant that his appeal was untimely filed and could be dismissed by the local board for that reason. Ms. King advised the Appellant that he had until June 6, 2017, to submit a letter explaining why the appeal was not submitted within the prescribed timeframe. (Motion, Ex. 8). On June 2, 2017, Appellant responded by email stating that: (a) Although Dr. Navarro's letter was dated April 24, 2017, it was date stamped on April 26 and it was not received until May 1; and (b) Appellant was out of town during the week of May 1 and did not have the opportunity to work on the appeal letter until the second week of May. (Motion, Ex. 10).

On June 26, 2017, the local board issued an order dismissing the Appellant's appeal as untimely. The local board explained that the reasons Appellant provided did not amount to a "bona fide emergency or event that could not have been foreseen prior to the deadline, which precluded him from filing the appeal by the deadline." The local board also pointed out that, even if the Appellant did not get a chance to prepare a response until the second week of May, there was still sufficient time before the 30-day deadline expired for him to submit his appeal. The local board stated that the "30-day deadline takes into consideration the time needed for

¹ Appellant's son was admitted to the Humanities and Communications Magnet Program at Eastern Middle School.

processing and postal delivery service, so a short delay is expected and reasonable.” (Motion, Ex. 12).

The Appellant timely appealed the local board’s decision to the State Board.

Section 4-205(c)(3) of the Education Article provides that “[a] decision of a county superintendent may be appealed to the county board if taken in writing within 30 days after the decision of the county superintendent.” This same requirement is reiterated in the local board’s Policy BLB – Rules of Procedure in Appeals and Hearings, which also states that failure to file the appeal within the timeframe is a basis for dismissal. (*See* BLB(B)(3)(b) & (B)(3)(g)). 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). Accordingly, the State Board has consistently dismissed appeals that were untimely filed with the local board. *See Nonna A. and Dylan C. v. Howard County Bd. of Educ.*, MSBE Order No. OR10-09, and cases cited therein.

The Appellant has not provided an explanation for the late filing that we would consider an extraordinary circumstance. Therefore, finding no extraordinary circumstance that would merit an exception to the mandatory thirty-day deadline in this case, it is this 19th day of September, 2017, by the Maryland State Board of Education,

ORDERED, that the local board’s decision dismissing the appeal for untimeliness is affirmed.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Andrew R. Smarick
President