

KIONA B.,

Appellant

v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 17-16

ORDER

Appellant appeals the Anne Arundel County Board of Education's ("local board") decision that she and her children are not bona fide residents of the geographic area serving the schools attended by her children, Windsor Farm Elementary School and Severn River Middle School. The local board filed a Motion to Dismiss the appeal based on untimeliness. Appellant did not respond.

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 shall 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, before the expiration of the time period, it has been delivered to the State Board, deposited in the U.S. mail as registered, certified or Express, or deposited with a delivery service that provides verifiable tracking from the point of origin. COMAR 13A.01.05.02B(3).

The local board issued its decision on July 12, 2017. (Local Bd. Opinion). The cover letter, dated July 13, 2017, attached to the local board's decision and sent to the Appellant, advised of the right to appeal to the State Board of Education. The cover letter stated that the appeal "must be filed within thirty (30) calendar days of the date of this decision." (Connolly Letter).

The Appellant's appeal should have been transmitted to the State Board on or before August 11, 2017, but it was not transmitted until August 14, 2017, the date it was delivered to the State Board by facsimile and first class mail. As explained above, the transmittal date is either the date of delivery to the State Board, the date of deposit in the U.S. mail as registered, certified or Express mail, or the date of deposit with a delivery service with verifiable tracking from the point of origin. *See* COMAR 13A.01.05.02B(3). Because Appellant used facsimile and first-class mail to send the appeal, the transmittal date is the date of delivery to the State Board.

Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice. *See Scott v. Board of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983). The Appellant provided no reason for the late filing. We, therefore, find no extraordinary circumstance that would justify an exception to the mandatory thirty-day deadline.

Therefore, it is this 24th day of October 2017 by the Maryland State Board of Education,
ORDERED, that the appeal referenced above is hereby dismissed for untimeliness. *See*
COMAR 13A.01.05.03C(2).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Andrew R. Smarick
President