

RAYMOND RUARK,

Appellant,

v.

SOMERSET COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 19-18

ORDER

This is an appeal of the decision of the Somerset County Board of Education (“local board”) to disqualify the Appellant from driving a school bus after he failed to control the behavior of students. Specifically, the school system found that a student sustained a concussion during a fight on the bus, and that Appellant did not stop students from jumping on seats or standing in the aisles prior to the fight. He also used his cell phone while the bus was in motion. (Hearing Examiner Decision).

Appellant appealed the disqualification and the local board referred the matter to a hearing examiner for a proposed decision. On June 18, 2019, the hearing examiner recommended that the local board affirm the local superintendent’s decision. On August 21, 2019, the local board adopted the hearing examiner’s decision in full. The decision informed Appellant that he had 30 days in which to file an appeal with the State Board of Education. (Local Board Decision).

On September 23, 2019, Appellant filed an appeal of the local board’s decision to the local board. The local board forwarded the appeal to the State Board of Education, which received the appeal on September 27, 2019. (Appeal).

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 August 21, 2019. The Appellant’s appeal should have been filed with the State Board on or before September 20, 2019. It was not received by the local board until September 23, 2019, and was not received by the State Board until September 27, 2019. Even if the State Board considered the filing with the local board to be a proper notice of appeal, which we do not, it was untimely.

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 explanation in his appeal for the late filing.

Therefore, it is this 22nd day of October 2019 by the Maryland State Board of Education, ORDERED, that the appeal referenced above is hereby dismissed for untimeliness. *See* COMAR 13A.01.05.02B(1); COMAR 13A.01.05.03B(1)(e).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Warner I. Sumpter
President