

BASH PHAROAN,

Appellant

v.

BALTIMORE COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR17-05

ORDER

Appellant filed an appeal of the decision of the Baltimore County Board of Education (“local board”) challenging the 2016-2017 and 2017-2018 school calendars as approved by the local board without recognizing the Muslim high holy days as official school holidays necessitating the closure of schools and school system offices. Appellant also challenges the local board’s decision to reject the recommendation of its Policy Review Committee (“PRC”) to close schools and school system offices on the Muslim high holy days of Eid Al-Adha and Eid Al-Fir.¹ The local board filed a Motion for Summary Affirmance maintaining that its decisions were not arbitrary, unreasonable or illegal and should be upheld. Appellant responded to the motion and the local board replied.

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). Although the local board did not request dismissal of the appeal based on untimeliness, the State Board may dismiss an appeal for this reason on its own motion. COMAR 13A.01.05.03(C)(2).

Because the Appellant challenges several different decisions of the local board, there are several relevant dates at issue here that each trigger the thirty-day time frame for filing a State Board appeal. The local board originally approved the 2016-2017 school calendar on November 3, 2015, and revised the calendar on June 14, 2016. (Motion, Ex. 8). Using the later June 14, 2016 date, the Appellant’s appeal of the 2016-2017 school calendar should have been transmitted to the State Board on or before July 14, 2016. The local board voted to reject the PRC’s recommendation on August 23, 2016. (Motion Ex. 15). Appellant’s appeal of that decision should have been transmitted to the State Board on or before September 22, 2016. The local board approved the 2017-2018 school calendar on November 9, 2016. (Motion, Ex. 10D). Therefore, the Appellant’s appeal of the 2017-2018 school calendar should have been transmitted to the State Board on or before December 9, 2016. The Appellant, however,

¹ Appeals of this type are likely to be considered appeals of a quasi-legislative decision that are not subject to State Board review absent claims of illegality.

collectively appealed all of these issues in an appeal transmitted via email to the State Board on December 14, 2016.²

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). We find no extraordinary circumstance that would justify an exception to the mandatory thirty-day deadline.

Therefore, it is this 25th day of April, 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

² We point out that the Appellant previously appealed the calendar issue to the State Board in *ADC Baltimore v. Baltimore County Bd. of Educ.*, MSBE Op. No. 05-01 (2005).