

XIOMARA C.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION

Appellee.

ORDER OF THE
STATE BOARD
OF EDUCATION

Order No. OR 17-10

ORDER

Appellant filed an appeal of a decision of the Montgomery County Board of Education denying her request to transfer her son from Neelsville Middle School to Herbert Hoover Middle School or Cabin John Middle School.

The local board filed a motion to dismiss the appeal based on untimeliness. 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 denying the appeal on May 9, 2017. The decision included a cover letter that correctly informed Appellants of the 30-day time requirement calculated from “the date of the enclosed Decision and Order.” The Appellant’s appeal should have been transmitted to the State Board on or before June 8, 2017. She sent the appeal electronically by email and by fax to the State Board on June 10, 2017, a Saturday. The State Board considered these copies transmitted as of the next business day, which was Monday, June 12. Appellant also mailed a hard copy by regular mail on June 10, and placed a hard copy with Federal Express on June 16. None of the copies was transmitted prior to the deadline.¹

Time limitations are generally mandatory and will not be overlooked except in extraordinary cases such as fraud or lack of notice. *See Scott v. Board of Educ. of Prince George’s County*, 3 Op. MSBE 139 (1983). The State Board has consistently applied this rule of law, dismissing appeals that have been filed even one day late based on untimeliness. *See Cathy G. v. Montgomery County Bd. of Educ.*, MSBE Order No. OR17-04 (2017) (listing cases). In response to the local board’s Motion to Dismiss, Appellant included additional letters in support of the transfer request from her son, her daughter, and from the former PTA treasurer for Herbert Hoover Middle School. Appellant did not address the board’s motion or the late filing, nor did any of the additional letters. In the absence of any extraordinary circumstances, we decline to excuse the late filing in this case.

¹ Appellant initially filed her appeal with the local board on June 9, 2017. A school system official informed her that same day that the appeal should instead be sent to the State Board of Education, as it stated on the letter accompanying the local board’s decision.

Therefore, it is this 22nd day of August 2017, by the Maryland State Board of Education,
ORDERED, that the appeal referenced above is hereby dismissed.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Andrew R. Smarick
President