

HAILAN W.,

Appellant

v.

MONTGOMERY COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 19-21

### ORDER

Appellant challenges the decision of the Montgomery County Board of Education (local board) dismissing her appeal as untimely. The local board filed a response to the appeal. The Appellant did not respond despite being provided the opportunity to do so.<sup>1</sup>

The relevant facts are: For the 2019- 2020 school year, Appellant's son was offered admission to the Magnet School for Digital Design and Development at Argyle Middle School (Argyle MS). He was denied admission and placed on the wait list for the Mathematics, Science, Computer Science Magnet Program at Roberto W. Clemente Middle School (Clemente MS).

The Appellant appealed the denial of admission at Clemente MS. The Level I appeals committee upheld the denial and wait list decision. On further appeal, the Level II appeals committee recommended that the appeal be denied and that Appellant's son's placement on the wait list for the Magnet Program at Clemente MS continue. By letter dated April 26, 2019, Chief Academic Officer, Maria V. Navarro, acting as the Superintendent's designee, notified the Appellant that she was adopting the recommendation of the Level II appeals committee denying the appeal. (Memorandum, Ex.4). In the letter, Ms. Navarro stated:

Should you wish to file an appeal of my decision, you may do so in writing to the Montgomery County Board of Education (Board), 850 Hungerford Drive, Room 123, Rockville, Maryland 20850, as soon as possible, but no later than thirty (30) calendar days from the date of this letter. Under Policy BLB, *Rules of Procedure in Appeals and Hearings*, "filing" means that the appeal must be received by the Board, so your appeal must be received by the Board within 30 calendar days from the date of this letter.

The local board received Appellant's appeal on May 31, 2019. In a June 3, 2019 letter, the local board's Chief of Staff advised Appellant that her appeal was untimely filed because it

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<sup>1</sup> Per Appellant's request, the State Board had the correspondence from the State Board and the submissions by the local board translated from English to Chinese Mandarin. The time required for translation of the materials has resulted in significant delay to the case.

was due on May 28<sup>th</sup>.<sup>2</sup> She further advised the Appellant that the local board could dismiss the appeal pursuant to local board policy, but that Appellant could first provide a letter explaining why she did not submit the appeal by the deadline. She stated that such explanations generally include information about emergencies and other unforeseen events that prevented timely submission. (Memorandum, Ex. 7).

In an email to the local board, the Appellant explained that the lateness of her appeal was a result of her wanting to provide the local board with accurate information. It appears her reasoning centered on whether she could actually get her son to Argyle MS due to her work schedule. At the time the appeal was due, Appellant was uncertain if her husband would be available in the mornings to take her son to school due to his job status. She explained that her husband was seeking employment in China and was not sure if he would return to Maryland, so she waited to file until her husband confirmed that he got a job in China and was remaining there. (Memorandum, Ex. 8).

The local board considered the Appellant's explanation but found the reason insufficient to waive the 30-day filing deadline. The board found no evidence of fraud or lack of notice, "or of a bona fide emergency or other event" that precluded timely filing. (Memorandum, Ex. 9). The board noted that although the Appellant and her family may have been preoccupied with employment and overseas living accommodations, she had ample time to submit the appeal after receiving the letter from the Chief of Staff. By order dated July 11, 2019, the local board dismissed the appeal for untimeliness. *Id.*

We note that the Appellant's son has been enrolled in and attending the Magnet Program at Argyle MS since the beginning of the 2019-2020 school year. (Memorandum, Ex. 10).

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, 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 local board dismissed the appeal because it did not find the Appellant's reason for late filing to be an extraordinary circumstance sufficient to waive the 30-day filing deadline. The Appellant could have explained her circumstances in a timely filed appeal and provided an update to the local board at a later time. Instead, she waited to file until the deadline had passed. Thus, we do not find the local board's decision to be arbitrary, unreasonable or illegal.

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<sup>2</sup> Because the 30-day appeal deadline ended on Sunday, May 26, 2019 and Monday, May 27, 2019 was Memorial Day, a federal holiday, Appellant's appeal to the local board was due the next business day on Tuesday, May 28, 2019. *See* Policy BLB (B)(6)(a).

Therefore, it is this 3rd day of December 2019, 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:

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Warner I. Sumpter  
President