HEATHER A.,

        Appellant

        v.

ANNE ARUNDEL COUNTY
BOARD OF EDUCATION

        Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 17-15

ORDER

Appellant filed an appeal of the decision of the Anne Arundel County Board of Education ("local board") finding that Appellant's daughter is not entitled to attend Anne Arundel County Public Schools because she is not a bona fide resident of Anne Arundel County.

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

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 31, 2017. 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).

In this case, however, Appellant maintains that the local board did not mail its decision until July 17, 2017, as evidenced by the postmark date on the envelope, and that she did not receive it until July 22, 2017. She argues, therefore, that she should have received additional time to file her appeal.

This Board has previously explained that that 30-day filing deadline takes into consideration the fact that it might take several days for an individual to receive notice of the local board's decision. *Eastern Middle School Workgroup v. Montgomery County Bd. of Educ.*, MSBE Order No. OR10-03 (2010). Thus, in cases involving an appellant's delayed receipt of a local board decision due to delays in mailing, this Board has found that such delays do not necessarily warrant an extension of time for filing an appeal. *See Daryl Hunsberger v. Washington County Bd. of Educ.*, MSBE Order No. OR13-01 (2013); *Foundations Charter Sch. v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Order No. OR09-03 (2009); *Mohan G. v.*

Montgomery County Bd. of Educ., MSBE Order No. 08-48 (2008)(finding that three to six day delays in mailing a local board's decision to an appellant were not extraordinary circumstances sufficient to justify an extension of the filing deadline). The State Board reasoned in these cases that there was still sufficient time remaining in the limitations period for the appellants to timely file their appeals. *Id*.

The same reasoning applies here. Assuming that there was a five day delay in mailing the decision to the Appellant, in our view there was still sufficient time for the Appellant to timely file her appeal. Moreover, even if we were to use July 22, the date Appellant claims to have received the local board's decision, as the trigger date for calculating the 30-day appeal deadline, the Appellant would have still been late in submitting her appeal. We find no extraordinary circumstance that would justify an exception to the mandatory 30-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:

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Andrew R. Smarick
President