

EBONY H.,

Appellant

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 18-07

ORDER

This is an appeal of the decision of the Montgomery County Board of Education (“local board”) denying the Appellant’s request that Montgomery County Public Schools (“MCPS”) pay for her children to attend private school to be homeschooled based on her belief that staff at Great Seneca Creek Elementary School violated MCPS policies and treated her family unfairly.

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 May 21, 2018. (Motion, Ex. A). The cover letter, dated May 22, 2018, attached to the local board’s decision and sent to the Appellant, advised Appellant of her right to appeal the local board’s decision to the State Board of Education “within 30 days of the date of the enclosed Decision and Order.” The cover letter stated “[t]o meet the 30-day deadline, State Board regulations, found in COMAR 13A.01.05.02(B)(3), require that your appeal, along with a copy of the Decision and Order, must be transmitted to the State Board on, or before the 30th day following the date of the enclosed Decision and Order.” (Motion, Ex. B).

The Appellant’s appeal should have been transmitted to the State Board on or before June 20, 2018, but it was not transmitted until June 30, 2018, the date it was sent to the State Board by certified mail. 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 maintains that she thought the appeal was due on June 30th. She also claims that when she received the local board’s decision she was in the midst of family health difficulties because the children’s father needs a liver transplant and she “has to provide transportation to doctors visits every week” following his release from the hospital. (Response to Motion). We have previously recognized that “life circumstances,” such as death of a close friend, work commitments, and early birth of a nephew, did not constitute “extraordinary circumstances” for purposes of waiving the statutory deadline. *See Hartley and Sample v.*

Montgomery County Bd. of Educ., MSBE Order No. OR17-11 and cases cited therein. The 30-day filing deadline is a lengthy time period. While we understand the difficulties the Appellant experienced, the reasons given for her late filing do not rise to the level of an extraordinary circumstance that justifies an exception to the mandatory thirty-day deadline.

Therefore, it is this 28th day of August 2018 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:

Justin M. Hartings
President