

MR. AND MRS. DAVID E.,

Appellants

v.

HARFORD COUNTY BOARD
OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 18-06

ORDER

Appellants are the grandparents and guardians of Student X. They filed this appeal with the State Board challenging the decision of the Harford County Board of Education (“local board”) dismissing as untimely filed Appellants’ appeal of the Superintendent’s decision to expel Student X for possessing and displaying a knife on school property.

On March 2, 2018, school administrators suspended Student X from school for ten days for possessing and displaying a knife on school property in violation of the local board’s Disciplinary Code and referred him to the Superintendent for further disciplinary action. Student X claimed that he brought the knife to school for protection in case of a school shooting. (Appeal, Ex. H). On March 14, 2018, Buzz Williams, the Superintendent’s Designee, conducted a disciplinary conference with the Appellants and Student X. Mr. Williams recommended expulsion of Student X through the end of the school year.

By letter dated March 19, 2018, the Superintendent advised the Appellants that he was expelling Student X for the balance of the 2017-2018 school year. (Appeal, Ex. I). He further advised that Student X would receive educational services at an Interim Alternative Education Setting to be determined by the IEP team, and that he would be subject to a school re-entry meeting during the summer. *Id.*

The Superintendent’s March 19, 2018 letter also advised the Appellants of their appeal rights. It stated that the Appellants could “appeal the decision of the Superintendent to the Board of Education of Harford County” by sending the request in writing to the local board, and that the appeal must be received “within (ten) 10 calendar days from the date of [his] letter.” *Id.* The letter also provided the mailing address for filing the appeal to the local board. *Id.* The local board’s Policy 22-0018-000 – Hearings Before the Board of Education of Harford County or the Hearing Examiner, also advises parents and guardians that they must notify the local board of their appeal within ten days of the Superintendent’s determination to expel. (Policy 22-0018-000(1)(c)). The appeal to the local board was due to be filed on Thursday, March 29, 2018.

It was not until May 21, 2018, that the Appellants filed an appeal of the expulsion decision to the local board. By letter dated May 29, 2018, Gregory A. Szoka, Esq., counsel for the local board in appeal matters, advised the Appellants that their appeal was dismissed as untimely filed. (Appeal, Ex. C).

Section 7-305(d)(5) of the Education Article provides that when, after conference, the Superintendent or designee “finds that a suspension of more than 10 school days or expulsion is

warranted,” the student, or the student’s parent or guardian may appeal the superintendent’s decision to the local board “within 10 days after the determination.” Again, this same requirement is reiterated in the local board’s Policy 22-0018-000. 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 (1083). 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 Appellants claim that they did not know how to file an appeal and that they were confused about the appeal process. Yet the Appellants do not dispute that they received notice of their appeal rights, which included directions on how to file the appeal. (Appeal, Ex. D). As we recognized in *William M. and Corona S. v. Worcester County Bd. of Educ.*, MSBE Op. No. 13-63 (2013), and cases cited therein, ignorance of the law is no excuse for late filing.

The Appellants maintain that they made numerous calls and sent emails about the superintendent’s decision and thought that those communications satisfied filing the appeal. Yet not one of the communications prior to the filing deadline that Appellants have submitted as evidence in the case was sent to the local board or specified that the Appellants intended to file an appeal of the Superintendent’s expulsion decision to the local board. Rather the communications were with Mr. Williams and focused on Student X’s alternative placement during the course of the expulsion, Student X’s special education needs, and the school of placement upon Student X’s return to school at the end of the expulsion period.

The Appellants have not provided an explanation for late filing that we would consider an extraordinary circumstance. Therefore, finding no extraordinary circumstance that would merit and exception to the mandatory 10 day deadline in this case, it is this 28th day of August, 2018, by the Maryland State Board of Education,

ORDERED, that the local board’s decision dismissing the appeal for untimeliness is affirmed

Signature on File:

Justin M. Hartings
President

August 28, 2018