

MARCUS HAYES,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 23-04

ORDER

Appellant filed this appeal of his termination from Baltimore City Public Schools (“BCPS”). The Baltimore City Board of School Commissioners (“local board”) issued an order on June 14, 2022, accepting its Hearing Officer’s recommendation to terminate the Appellant from his position as Director of Community Engagement and Climate at Montebello Elementary/Middle School. (Ex. 1 at 108). While the appeal of the termination from Montebello was pending at the local level, due to an unusual confluence of events involving the BCPS employee management system, Appellant secured employment at Wildwood Elementary/Middle School to assist with culture and climate, without the administration’s knowledge of the prior termination. The local board thereafter issued an order on September 27, 2022, accepting its Hearing Officer’s recommendation to terminate Appellant from the position at Wildwood. (Ex. 2 at 42). Both positions were temporary, at-will positions subject to termination without cause.

The local board filed a motion to dismiss the appeal maintaining that Appellant did not timely file his State Board appeal. Appellant responded to the local board’s motion and the local board replied.

COMAR 13A.01.05.02B(1) provides that an appeal to the State Board “shall be filed 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 State Board has also been accepting delivery of appeals by email.

The local board issued two termination orders – one on June 14, 2022, and one on September 27, 2022. Each order was sent to the Appellant with an attached cover letter advising that he could appeal the decision to the State Board within 30 days of the date of the local board’s decision. (Ex. 1 at 107; Ex. 2 at 41). The Appellant should have filed his first appeal with the State Board on or before July 14, 2022, and his second appeal on or before October 27, 2022. He did not file an appeal to the State Board until October 31, 2022, the date the State Board received his appeal via regular 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 Ops. MSBE 139 (1983). The State Board

has consistently applied this rule of law and has dismissed appeals that have been filed one day late based on untimeliness. *See Lee v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Order No. OR22-02 (2022); *Cathy G. v. Montgomery County Bd. of Educ.*, MSBE Order No. OR17-04 (2017) and cases cited therein.

Appellant makes no valid argument to extend the filing time. We, therefore, find no extraordinary circumstance that would justify an exception to the mandatory 30-day deadline.

Accordingly, it is this 28th day of February 2023, by the Maryland State Board of Education, ORDERED, that the appeal is dismissed for untimeliness. COMAR 13A.01.05.03B.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President