

Z.V.,

Appellant

v.

BALTIMORE CITY BOARD
OF SCHOOL
COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 23-14

ORDER

On May 10, 2023, Appellant requested the State Board to amend *Z.V. v. Baltimore City Bd. of School Commissioners*, MSBE Order No. OR 23-06 (2023), decided February 28, 2023. In that matter, Appellant challenged the decision of the Baltimore City Board of School Commissioners (“local board”) affirming the Chief Executive Officer’s and Chief Human Capital Officer’s decision to reassign Appellant from her position of Director – Education Pipeline and Induction to a new position. We concluded that the appeal was not ripe because the local board had not yet identified the Appellant’s new position to complete the reassignment. *Id.* Our Order also stated, “the employee may exercise any rights available to her regarding her transfer after she is placed into another position.” *Id.* Our Order did not extend any filing deadlines under our regulations.

On February 9, 2023, prior to the issuance of MSBE Order No. OR 23-06, the local board offered the Appellant a new position Director – Secondary Support which she accepted. Neither party informed the State Board of the reassignment prior to the issuance of our Order. Appellant did not further pursue her initial appeal, but on May 10, 2023, she filed an Appeal for Declaratory Judgment. Appellant’s May 10, 2023, Appeal for Declaratory Judgment at p. 1 requests the State Board amend OR 23-06:

to include a declaratory judgment that finds that [City Schools] violated numerous state laws and regulations, civil rights law, and public policy when it allowed the Chief Human Capital Office to transfer the Appellant into a non-existent position and allow the Appellant to remain in this non-position for over two school years, based on discriminatory animus and in retaliation for Appellants protected activity.

Counsel for the local board filed a motion to dismiss the appeal arguing that despite its title of “Appeal for Declaratory Judgment” that Appellant’s filing is a request for reconsideration to amend MSBE Order No. OR 23-06 and that it should be dismissed as untimely.

Under our regulations, a party may petition the State Board for a declaratory ruling on the interpretation of a public school law or regulation of the State Board that is material to an existing case or controversy. COMAR 13A.01.05.05. Appellant’s request seeks to modify OR 23-06 to include factual findings that the local board’s actions were discriminatory and retaliatory under the American with Disabilities Act and the Civil Rights Act. Such findings do not involve

interpretation of a public school law or State Board regulation as required by regulation for a declaratory ruling.

Stripping away the caption of Appellant's filing, it is evident that Appellant seeks a modification of OR 23-06 under COMAR 13A.01.05.10A and G. State Board regulation requires that a request for reconsideration under COMAR 13A.01.05.10A is to be filed within 30 days of the date of the State Board's decision. Therefore, any request for reconsideration to modify Order No. 23-06 should have been filed by March 30, 2023, within 30 days of our February 28, 2023 Order. Because the Appellant did not file the request until May 10, 2023, the request was untimely. *See John and Tammy W. v. Charles County Board of Educ.*, MSBE Order No. 22-11 (2022) ("Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice."). The Appellant fails to address the timeliness issue and does not claim any extraordinary circumstances.

Accordingly, it is this 22nd day of August 2023, by the Maryland State Board of Education, ORDERED, that the request for reconsideration is dismissed for untimeliness. *See* COMAR 13A.01.05.10A.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President