

CHARLENE TOMBS,

Appellant

v.

BALTIMORE COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 22-03

ORDER

On March 17, 2020, Charlene Tombs filed an appeal to the State Board of her termination from Baltimore County Public Schools. In her appeal, she sought additional time to submit her documentation. Based on Ms. Tombs request and given that the appeal did not include the information required by the State Board appeal procedures as set forth in COMAR 13A.01.05.02(A), by letter dated May 11, 2020, the State Board provided Ms. Tombs additional time to file information to perfect the appeal by May 21, 2020. Specifically, the letter asked Appellant to include “a statement of facts and issues upon which the appeal is based” and her “reasons in support of the appeal.” The letter also advised that due to the pandemic, the State Board was accepting electronic filings. On May 21, 2020, the State Board received a letter from Ms. Tombs stating that she would have to pursue her appeal at another time due to the death of her father.

The State Board heard nothing more about the appeal until May 25, 2021, when Delegate Sheila Ruth reached out on behalf of Ms. Tombs seeking to have Ms. Tombs’ appeal reopened. She stated that Ms. Tombs did not respond in May 2020 due to the death of her father, the pandemic, and because she believed she had no chance in the case without legal counsel. After some correspondence from Delegate Ruth, counsel for the State Board ultimately advised that Ms. Tombs would have to refile her appeal with the State Board. (10/6/21 La Fiandra Email). Ms. Tombs filed a request to reopen her appeal on October 15, 2021.

The local board has filed a motion to dismiss the appeal for untimeliness. Although the local board acknowledges that the appeal initially filed on March 17 was timely, it argues that the Appellant failed to perfect her appeal with the required information and the State Board granted no extension or stay of the case. Further, the local board argues that Appellant did not file to reopen the appeal until nearly 18 months after her initial filing.

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). 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).

There is no dispute that the appeal initially filed on March 17, 2020 was timely. The Appellant, however, did not perfect the appeal within the time frame provided, indicating instead that she would have to pursue the appeal at another time. Because the Appellant never filed the additional information, the issue is whether she can now reinitiate her appeal more than a year later.

Appellant maintains that the appeal should be reopened because several things were taking place in May 2020 that impacted her ability to submit the necessary information. She explains that, in addition to the pandemic, her father passed away and she had to handle his affairs. She also states that her mother was ill at the time, and passed away in 2021. Further, she maintains that she was unable to deliver her documents to the State Board office because MSDE was closed, and she was unable to scan her appeal documents because Office Depot was closed due to the State of Emergency.

We note that the MSDE building was closed temporarily to personal deliveries at the immediate initial stage of the pandemic in March 2020 when the Appellant first sought to deliver her documents in person. This was not the case by May 21, 2020. The State Board office has remained operational throughout the entire pandemic by phone and email, and has been accepting mail regularly. The only alteration to the appeal process made by the Board in response to the pandemic was to begin accepting appeals via email rather than requiring in-person delivery, or delivery by mail or other service, and also to correspond to parties to an appeal via email. Further, while Appellant maintains that she had no way to scan documents due to the closure of stores based on the pandemic, the Governor reopened retail stores at 50% capacity on May 15, 2020,¹ several days prior to the initial extension.

Even if the State Board would have considered a limited stay of the case or extension beyond the May 21, 2020 deadline due to the confluence of events, the State Board heard nothing from the Appellant or anyone on her behalf until a year after the appeal information was due. The circumstances cited by the Appellant do not amount to extraordinary circumstances that would justify reopening her appeal after such a lengthy time. *See Reyes-Harding v. Howard County Bd. of Educ.*, MSBE OR20-10 (2020)(premature birth of baby and placement in NICU not extraordinary circumstance); *Herbi and Yvonne M. v. Montgomery County Bd. of Educ.*, MSBE OR18-11 (2018)(birth of baby not extraordinary circumstance); *Ebony H. v. Montgomery County Bd. of Educ.*, MSBE OR18-07 (2018)(transporting parent needing liver transplant to medical appointments not extraordinary circumstance); *Yvette J. v. Montgomery County Bd. of Educ.*, MSBE OR09-05 (2009)(difficulties related to father’s ailing health and matters involving children not extraordinary circumstance); *Hartley v. Montgomery County Bd. of Educ.*, MSBE OR07-11 (2011)(death of close friend, work commitment, and birth of great nephew not extraordinary circumstance).

Therefore, it is this 25th day of January 2022 by the Maryland State Board of Education, ORDERED, that the appeal referenced above is hereby dismissed. *See* COMAR 13A.01.05.03B(2).

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President

¹ <https://governor.maryland.gov/wp-content/uploads/2020/05/Gatherings-SIXTH-AMENDED-5.13.20.pdf>