

MR. AND MRS. STEPHAN
L.,

Appellants

v.

MONTGOMERY COUNTY
BOARD OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 23-10

ORDER

Appellants challenge the decision of the Montgomery County Board of Education (“local board”) issued on December 6, 2022, denying their request to transfer their child from Seneca Valley High School to Clarksburg High School. The local board responded to the appeal maintaining that Appellants did not timely file their State Board appeal, and alternatively that the local board’s decision was not arbitrary, unreasonable, or illegal. Appellants did not file a reply to the local board’s response.

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 its decision on December 6, 2022. Both the decision and the cover letter accompanying the decision advised that the Appellants could appeal the matter to the State Board within 30 days of the date of the local board’s decision. *See* Local Bd. Decision and 12/7/22 Seabrook Letter.

The Appellants should have filed their appeal with the State Board on or before January 5, 2023, but they did not file it until January 12, 2023, the date the State Board received the appeal via first-class 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 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.

Appellants have not made any 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 25th day of April 2023 by the Maryland State Board of Education, ORDERED, that the appeal referenced above is hereby dismissed for untimeliness. *See* COMAR 13A.01.05.03B.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Clarence C. Crawford
President