

RICHARD AND JULIA B.,

Appellant

v.

HOWARD COUNTY
BOARD OF EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR 17-17

ORDER

Appellants challenged the school system's decision that their daughter was not eligible for school bus service because their home was located within walking distance of a high school. On May 9, 2017, the superintendent's designee denied their appeal, concluding that the walking route provided an acceptable level of safety for high-school-aged students and bus service was unnecessary. (Motion, Ex. 1). On May 15, 2017, Appellants sent a letter expressing their disagreement with the decision to the local board. (Motion, Ex. 2). On May 22, 2017, the local board acknowledged receipt of the letter, but explained that Appellants needed to complete an Appeal Information Form and return it to the board office within 45 calendar days in order to pursue an appeal. The letter stated that "Failure to do so will result in denial of your appeal to the Board due to untimeliness." (Motion, Ex. 3). The Appeal Information Form was due July 6, 2017. The local board received Appellant's Appeal Information Form on July 7, 2017. (Motion, Ex. 4). On July 12, 2017, the local board denied the appeal as untimely. (Motion, Ex. 5).

Appellants acknowledge that the Appeal Information Form was filed beyond the 45-day deadline, but stated that they were hoping for an additional grace period because they raised safety concerns. Although we have previously cautioned local boards not to treat form over substance in handling appeals, *see Brown v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 15-18 (2015), the local board here did not dismiss Appellants' appeal outright because they did not file an Appeal Information Form. Instead, the local board provided Appellants with additional time to submit their appeal in the manner required by the board and warned them about the consequences of failing to follow the procedure. In our view, the local board did not elevate form over substance by taking this approach, particularly when we have previously held that requiring an Appeal Information Form of appellants is not inconsistent with the Education Article. *See Brown*, MSBE Op. No. 15-18.

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 Jatin W. v. Montgomery County Bd. of Educ.*, MSBE Order No. 17-14 (2017) (citing *Scott v. Board of Educ. of Prince George's County*, 3 Op. MSBE 139 (1983)). 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. OR 10-09 (2010), and cases cited therein. We see no reason to depart from our past precedents.

Therefore, it is this 24th day of October 2017, by the Maryland State Board of Education,
ORDERED, that the appeal referenced above is hereby dismissed.

MARYLAND STATE BOARD OF EDUCATION

Signature on File:

Andrew R. Smarick
President