

#198-12 (OAL Decision: Not yet available online)

VIRGIL F. DE MARIO,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
NEW JERSEY STATE	:	DECISION
BOARD OF EXAMINERS,	:	
	:	
RESPONDENT.	:	

SYNOPSIS

Pro-se petitioner appealed the respondent’s December 2, 2009 denial of his application for principal and school business administrator endorsements, which was based on a determination that the petitioner failed to meet the requirements for such endorsements as set forth in *N.J.A.C. 6A:9-12.5* and *N.J.A.C. 6A:9-12.7*. Although he filed a letter with the Department of Education on March 1, 2010, which purported to be an “Appeal from Decision of the State Board of Examiners,” petitioner did not submit all of the materials required to perfect his petition of appeal until June 1, 2010, and his appeal was filed with the Commissioner on June 7, 2010. The respondent filed a motion to dismiss the appeal as untimely pursuant to *N.J.A.C. 6A:3-1.10*.

The ALJ found, *inter alia*, that: petitioner did not submit a proper petition of appeal until approximately three months after the applicable ninety-day rule expired; petitioner was advised by letter from the Department of Education dated March 4, 2010 that his letter petition of March 2, 2010 was procedurally deficient and that the required filings needed to be timely submitted; thereafter, petitioner failed to file an appropriate appeal with the Commissioner until June 7, 2010. The ALJ concluded that petitioner’s appeal is time-barred under the ninety-day rule, *N.J.A.C. 6A :3-1.3(i)*, and there is no compelling reason to relax the rule. Accordingly, respondent’s motion to dismiss was granted, and the petition was dismissed.

Upon review, the Commissioner concurred with the ALJ that the petition was untimely filed, and adopted the Initial Decision of the OAL as the final decision in this matter.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

May 11, 2012

OAL DKT. NO. EDU 6991-10
AGENCY DKT. NO. 113-6/10

VIRGIL F. DE MARIO,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
NEW JERSEY STATE	:	DECISION
BOARD OF EXAMINERS,	:	
	:	
RESPONDENT.	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon his comprehensive consideration, the Commissioner agrees with the Administrative Law Judge (ALJ) that the instant Petition of Appeal – filed on June 7, 2010 in response to the State Board of Examiners’ December 2, 2009 decision denying petitioner’s application for Principal and School Business Administrator endorsements – was untimely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*. The Commissioner further agrees with the ALJ that petitioner has not advanced any compelling reason which would warrant the relaxation of this rule.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons cogently advanced therein and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 11, 2012

Date of Mailing: May 11, 2012

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*.