

#213-15 (Not yet available online)

M.S., on behalf of minor child, A.S., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF CRANBURY,
MIDDLESEX COUNTY, :
RESPONDENT. :

SYNOPSIS

The petitioner challenged the determination of the respondent Board that her son, A.S., engaged in behavior that fell under the school district's policy against harassment, intimidation and bullying (HIB). This case stems from an incident that took place on or about May 22, 2014. Petitioner's appeal was not perfected until January 30, 2015. The respondent Board filed a motion to dismiss in lieu of an answer, contending that petitioner's appeal was filed beyond the 90-day period allowed under *N.J.A.C.* 6A:3-1.3(i).

The ALJ found, *inter alia*, that: there are no material facts in dispute here, and the matter is ripe for summary decision; petitioner was properly advised that she could request a hearing before the Board to reconsider the superintendent's decision regarding the HIB finding, and was also advised that the Board's decision could be appealed to the Commissioner no later than 90 days after the issuance of the decision; petitioner requested a hearing via correspondence received by the Board on September 19, 2014; the hearing was held on September 30, 2014, at which time the Board affirmed the superintendent's determination that A.S. had committed acts of HIB; both petitioner and her husband were present at the hearing; the Board's written decision was received by petitioner on October 14, 2014; petitioner submitted an incomplete appeal by mail, which was received by the Department of Education on December 30, 2014; petitioner was informed of the deficiencies in her appeal by letter, which stated that if the incomplete petition was perfected in a timely manner, the filing date of December 30th would be allowed; however, petitioner did not file the perfected petition until January 30, 2015. The ALJ concluded that petitioner failed to file her appeal within the 90 days allowed under *N.J.A.C.* 6A:3-1.3(i), and provided no evidence or law to allow the relaxation of the 90-day time limit. Accordingly, the ALJ granted summary decision to the Board and dismissed the petition.

Upon review, the Commissioner concurred with the ALJ that the petitioner's appeal was time-barred under *N.J.A.C.* 6A:3-1.3(i). Accordingly, the Commissioner adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

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.

June 19, 2015

OAL DKT. NO. EDU 2571-15
AGENCY DKT. NO. 28-1/15

M.S., on behalf of minor child, A.S., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF CRANBURY,
MIDDLESEX COUNTY, :
RESPONDENT. :

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

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) determination that the petition of appeal was time barred under *N.J.A.C. 6A:3-1.3(i)*. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: June 19, 2015

Date of Mailing: June 19, 2015

¹ 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*).