

#358-16 (OAL Decision: Not yet available online)

J.K., ON BEHALF OF MINOR CHILD, T.K., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
WARREN COUNTY TECHNICAL SCHOOL,
WARREN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed an appeal on March 16, 2016, seeking a determination that the respondent Board's decision to deny T.K.'s application for readmission to the Warren County Technical School violated regulations governing admission to county vocational school districts; additionally, petitioner sought an order directing that T.K. be readmitted to the district. By letter dated September 18, 2015, the respondent Board advised J.K. that T.K.'s application for readmission was denied. T.K. had been enrolled in the Warren County Technical School during the 2013-2014 and 2014-2015 school years, but was withdrawn in August 2015 by his aunt, who shared joint custody with petitioner J.K., T.K.'s mother. Subsequently, J.K. informed the school that she wanted T.K. reenrolled and objected to the withdrawal by his aunt. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this matter, and the case is ripe for summary decision; T.K.'s aunt was the custodial guardian and shared joint custody of her nephew with his mother, J.K.; the Board, in accepting the withdrawal of T.K. from his aunt, did not violate any duty to J.K.; T.K.'s application for readmission to the program was denied by respondent because it was submitted outside of the application window; the letter dated September 18, 2015, advising petitioner that T.K.'s application was denied, was the final decision of the respondent Board regarding the application of T.K.; the within petition was not filed until March 16, 2016; and the petitioner failed to timely file the petition pursuant to *N.J.A.C. 6A:3-1.3(i)*. The ALJ concluded that the petition was late filed; accordingly, the ALJ granted the Board's motion for summary decision, and denied petitioner's cross motion.

Upon review, the Commissioner concurred with the ALJ's findings, and his conclusion that the petition was untimely. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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.
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OAL DKT. NO. EDU 05099-16
AGENCY DKT. NO. 86-3/16

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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 that the instant petition is appropriately dismissed because it was filed outside the 90-day limitation period set forth in *N.J.A.C. 6A:3-1.3(i)*. Accordingly, the Initial Decision – to the extent that it dismisses the petition as untimely – is adopted as the final decision in this matter, for the reasons stated therein. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 17, 2016
Date of Mailing: October 19, 2016

* 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)*.