

AMERICAN FEDERATION OF :
TEACHERS, LOCAL 3417, :
 :
PETITIONER, :
 :
V. : COMMISSIONER OF EDUCATION
 :
BOARD OF EDUCATION OF THE :
TOWNSHIP OF BERKELEY HEIGHTS, : DECISION
UNION COUNTY, :
 :
RESPONDENT. :
 :

SYNOPSIS

Petitioner contended that a number of Regional District teaching staff members, on dissolution of the Regional District, were prevented from selecting Berkeley Heights as their District of employment for the 1997-98 school year due to respondent's failure to post the appropriate number of teaching staff positions. Respondent argued, *inter alia*, that the petition was untimely filed.

ALJ found that petitioner had knowledge of the number of positions that the Board was seeking to fill since September 26, 1996, when the Board approved the postings of positions for the 1997-98 school year; furthermore, a list of the postings for the available positions of all the high schools involved with the dissolution was distributed to the employees of the regional district on October 21, 1996. Even giving petitioner every benefit of the doubt, its petition, which was filed on March 10, 1997, was untimely filed pursuant to *N.J.A.C. 6:24-1.2(c)*. ALJ dismissed petition as untimely filed.

Commissioner adopted findings and determination in initial decision as his own. Petition was dismissed.

NOVEMBER 30, 1998

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner sought and was granted an extension of time within which to file exceptions in this matter. Such exceptions and the Board's reply thereto were filed within the allotted timeframe, and both submissions were fully considered by the Commissioner in reaching his determination herein.

Upon his independent and careful review of the record, the Commissioner concurs with the Administrative Law Judge (ALJ), for the reasons clearly discussed in her initial decision, that the within Petition of Appeal was untimely filed pursuant to *N.J.A.C. 6:24-1.2(c)*. He further agrees with the ALJ that this matter presents no compelling or exceptional circumstances which would warrant relaxation or waiver of the ninety-day rule.

Accordingly, the initial decision of the OAL is affirmed and the within Petition of Appeal is hereby dismissed.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

NOVEMBER 30, 1998

* This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.