

BOARD OF EDUCATION OF THE	:	
TOWNSHIP OF SPRINGFIELD,	:	
UNION COUNTY,	:	
	:	
PETITIONER,	:	
	:	
V.	:	
	:	
NEW JERSEY STATE DEPARTMENT OF	:	COMMISSIONER OF EDUCATION
EDUCATION, BOARD OF EDUCATION	:	
OF THE BOROUGH OF POINT PLEASANT	:	DECISION
BEACH, OCEAN COUNTY AND BOARD	:	
OF EDUCATION OF THE CITY OF SUMMIT,	:	
UNION COUNTY,	:	
	:	
RESPONDENTS.	:	
	:	

SYNOPSIS

In December 2001, the Ocean County Superintendent of Schools notified respondent Point Pleasant Beach Board (Point Pleasant) that it was the district of residence for A.M. and her children, S.M. and M.C., for 1999-2000. Point Pleasant filed an appeal of that determination 84 days later. The Assistant Commissioner of Education for Finance reversed the determination in March 2002 and found petitioner Springfield Board was the responsible Board. Petitioner challenged the determination by the Assistant Commissioner that it was the district of residence for A.M. and her children and contended that Point Pleasant’s appeal of the Ocean County Superintendent’s decision was untimely.

The ALJ found that, as a matter of law, the appeal by Point Pleasant to the Assistant Commissioner was not made in a timely fashion as it was filed well beyond the 30-day requirement and no compelling circumstances existed to relax the rules for filing appeals. The ALJ granted summary decision in favor of petitioner.

The Commissioner adopted the Initial Decision with modification. The Commissioner concurred that Point Pleasant’s appeal was time-barred and, applying general principles of equity, the Commissioner found that respondents advanced no compelling reason to excuse Point Pleasant from the 30-day filing requirement. The Commissioner granted summary decision in favor of petitioner and set aside the March 2002 determination.

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.

OAL DKT. NO. EDU 5987-02
AGENCY DKT. NO. 184-6/02

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Respondents' exceptions and petitioner's reply thereto were submitted in accordance with *N.J.A.C.* 1:1-18.4.

In its exceptions, respondent New Jersey State Department of Education renews its contention, previously argued before the Administrative Law Judge (ALJ), that this matter should proceed to hearing since the Commissioner is permitted to relax the rules for the filing of appeals pursuant to *N.J.A.C.* 6A:3-1.16. In this connection, the Department asserts that injustice will result if the Commissioner strictly adheres to the "30 day requirement." (Department's Exceptions at 5) The Department also argues that this matter presents "unique and compelling circumstances" warranting such relaxation. (*Ibid.*)

Similarly, respondent Board of Education of the Borough of Point Pleasant Beach, (hereinafter, "Point Pleasant") admits that it filed a late appeal of the Ocean County Superintendent's decision to the Assistant Commissioner of Finance, but maintains that this late filing should be excused by the Commissioner. (Point Pleasant's Exceptions at 1) Point Pleasant cites as a basis for the excusal the reasons considered by the ALJ in his Initial Decision, adding that the County Superintendent's delay in initially deciding this matter contributed to its late appeal. "First," Point Pleasant explains, "they had to find the records, almost two years old, which supported the appeal to the Ocean County Superintendent. Then a decision on whether or not to appeal had to be made." (*Id.* at 2) Furthermore, Point Pleasant argues that the County Superintendent's delay "certainly lulled Point Pleasant Beach, without the availability of advice of counsel, into believing this was not an urgent matter." (*Id.* at 3)

In reply, petitioner, Board of Education of the Township of Springfield, counters that neither respondent has introduced facts in the record to challenge its motion for summary decision. Petitioner contends that even if Point Pleasant's claim regarding its attorney's illness is true, it fails to explain why it did not file a challenge before the middle of January 2002. Neither, petitioner continues, does a one-week break at Christmas justify a March 2002 untimely filing. Additionally, petitioner argues that the relaxation rule advanced by the respondent Department is not applicable to this matter, since that regulation, *N.J.A.C. 6A:3-1.16*, concerns only those rules under Chapter 3, Controversies and Disputes. Finally, petitioner attests that this matter does not present "unusual and compelling" circumstances, as argued by the Department, but is strictly a monetary dispute. (Petitioner's Reply at 4, 5) Petitioner concludes, therefore, that it is entitled to summary decision.

Upon careful and independent review of the record in this matter, the Commissioner finds, like the ALJ, that there can be no dispute that Point Pleasant's appeal pursuant to *N.J.A.C.* 6:20-5.3(d), now codified at *N.J.A.C.* 6A:23-5.2(d), was untimely.¹ Furthermore, applying general principles of equity, the Commissioner finds, for the reasons expressed by the ALJ, that respondents have advanced no compelling reason to excuse Point Pleasant from the 30-day filing requirement.²

Accordingly, the Initial Decision of the ALJ is adopted, with modification as set forth herein. Summary decision in favor of petitioner is hereby granted; Point Pleasant's March 2002 appeal to the Assistant Commissioner is time-barred and the decision resulting therefrom, consequently, is set aside.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: October 2, 2003

Date of Mailing: October 3, 2003

¹ In the first paragraph of its letter dated March 1, 2002, Point Pleasant indicates that its appeal "corresponds to the requirements of *N.J.A.C.* 6:20-5.2(d)(1-3)." (*sic*) (Petitioner's Motion for Summary Decision at Exhibit Q)

² In this connection, the Commissioner recognizes that the relaxation rule found at *N.J.A.C.* 6A:3-1.16 is restricted to the rules set forth in Chapter 3.

³ This decision 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.* 6A:4-1.1 *et seq.*