

MAURO DeGENNARO, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY : DECISION
OF HOBOKEN, HUDSON COUNTY AND :
JOHN R. RASLOWSKY, SUPERINTENDENT, :
RESPONDENTS. :

SYNOPSIS

Petitioner, a teacher in the Hoboken School District since September 1974, asserted that he had not been properly compensated for his services as a part-time athletic director and sought a salary adjustment retroactive to December 1992, which corresponds to the date petitioner earned a supervisory certificate. The respondent Board filed a motion for summary decision, arguing that the petitioner's April 2009 appeal was not timely filed.

The ALJ found, *inter alia*, that: there are no disputed material facts, and the matter is ripe for summary decision; petitioner's appeal was filed well past the regulatory timeline set forth at *N.J.A.C.* 6A:3-1.3(i); petitioner received clear notice with every paycheck received after December 1992 that the Board had determined to continue to pay him at the teacher's salary level; a challenge to salary guide placement must be brought within ninety days of the time that the teacher first became aware of the amount of his salary; and petitioner's claim was filed close to seventeen years beyond the ninety day statute of limitations. Accordingly, the ALJ granted respondent's motion for summary decision, and dismissed the petition.

Upon careful and independent review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter for the reasons clearly stated therein.

<p>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.</p>

October 6, 2009

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and the Board's reply thereto – filed in accordance with the provisions of *N.J.A.C.* 1:1-18.4 – were fully considered by the Commissioner in reaching her determination herein.

Petitioner's exceptions essentially recast and reiterate his arguments advanced before the Administrative Law Judge (ALJ) below. As it is determined that such arguments were fully considered and addressed in the Initial Decision, they will not be revisited here.

Upon full consideration, the Commissioner concurs with the ALJ that summary decision is appropriately granted to the Board as the instant petition was filed well outside the 90-day limitation period set forth in *N.J.A.C.* 6A:3-1.3(i) and the record provides no reason whatsoever for relaxation of this rule.

Accordingly, the recommended decision of the OAL is adopted for the reasons clearly articulated therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 6, 2009
Date of Mailing: October 7, 2009

* 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).

