

#147-11R (OAL Decision: Not yet available online)

J.F.L. on behalf of minor child M.L., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF AUDUBON,  
CAMDEN COUNTY, :  
RESPONDENT. :

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SYNOPSIS

On May 11, 2009, the petitioner filed an appeal challenging a two-day in-school suspension imposed upon his son by respondent Board, and sought expungement of the discipline from M.L.'s student record. The suspension occurred on December 11 and December 12, 2008. The Board filed a motion to dismiss the matter, asserting that the petition was not timely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*.

The ALJ found that: in this case, the ninety-day period in which a petition of appeal may be filed began to run, at the very latest, on January 8, 2009 – the date upon which petitioner was sent written notice that the suspension was upheld; the petition was filed beyond the ninety-day time period and is not timely; and no exceptional or compelling circumstances were presented to justify relaxation of the rule. Accordingly, the ALJ granted the Board's motion to dismiss the appeal.

Upon full consideration, the Commissioner concurred with the ALJ for the reasons detailed in the Initial Decision, and dismissed the petition.

<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>
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April 12, 2011

OAL DKT. NO. EDU 619-10  
(EDU 2996-09 on remand)  
AGENCY DKT. NO. 96-5/09

J.F.L. on behalf of minor child M.L., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF AUDUBON, :  
CAMDEN COUNTY, :  
RESPONDENT. :

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Upon review of the record of this matter and the Initial Decision on remand of the Office of Administrative Law (OAL),<sup>1</sup> the Commissioner concludes that the record supports the determination of the Administrative Law Judge (ALJ) that petitioner's appeal was untimely. The Commissioner therefore concurs that respondent's motion to dismiss the appeal should be granted, and adopts the Initial Decision dismissing the petition as the final decision in this case.

IT IS SO ORDERED.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 12, 2011

Date of Mailing: April 12, 2011

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<sup>1</sup> No exceptions to the Initial Decision have been filed by the parties.

<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).