

JOSEPH CUMBERLAND, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
LEAP ACADEMY UNIVERSITY : DECISION  
CHARTER SCHOOL, CAMDEN :  
COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner, a non-tenured high school English teacher employed by respondent LEAP Academy University Charter School (LEAP), appealed the termination of his employment contract. In lieu of an answer, LEAP filed a motion to dismiss, contending that the petition was not timely filed.

The ALJ found, *inter alia*, that: procedurally, respondent's motion to dismiss must be considered a motion for summary decision; the material facts are undisputed, and the matter is ripe for summary judgment; the threshold issue is whether the petition was timely filed; petitioner received written notice on November 20, 2009 that he was being terminated in accordance with the sixty-day notice provision of his employment contract, and that is the date from which the ninety-day period within which to file an appeal began to run; petitioner's appeal was not filed until July 29, 2010. Accordingly, the ALJ granted the Board's motion for summary decision and dismissed the petition as untimely.

The Commissioner concurred with the ALJ and adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

<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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March 4, 2011

OAL DKT. NO. EDU 9886-10  
AGENCY DKT. NO. 191-7/10

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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 LEAP Academy University Charter School is entitled to summary decision. Accordingly, the petition of appeal is dismissed.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 4, 2011

Date of Mailing: March 4, 2011

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\* Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.