

#127-12 (OAL Decision: Not yet available online)

ANATOL M. KOUS,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP	:	DECISION
OF OLD BRIDGE, MIDDLESEX COUNTY,	:	
DAVID CITTADINO, ANTHONY ARICO,	:	
JOANN PISCATELLI, ANNE CHOMKO,	:	
NICOLE SALADINO, TOM RICHMOND,	:	
OLD BRIDGE EDUCATION ASSOCIATION,	:	
AND NEW JERSEY EDUCATION	:	
ASSOCIATION	:	
	:	
RESPONDENTS.	:	
	:	

SYNOPSIS

Petitioner filed an appeal in which he sought, *inter alia*, to reopen the tenure litigation that was concluded against him by a final order of the Commissioner dated July 17, 2009, such outcome resulting from petitioner’s failure to answer the tenure charges. The respondents sought dismissal of the petition as untimely, and additionally contended that the Commissioner lacks jurisdiction over the majority of petitioner’s claims.

The ALJ found, *inter alia*, that: applicable Department of Education regulations provide for a ten-day limitations period for a motion for reconsideration, and a 45-day limitations period for an appeal to the Appellate Division; as of the date of arguments in this matter, it had been 933 days since the Commissioner issued the final decision at issue in this matter; petitioner presented no excusable justification for such a delay; time-bars in litigation before the Commissioner are promulgated with good reason and are uniformly enforced. The ALJ concluded that the petition failed to state a claim upon which relief may be granted, dismissed petitioner’s appeal with prejudice.

Upon full review and consideration, the Commissioner concurred with the findings and conclusions of the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed with prejudice.

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.

April 3, 2012

OAL DKT. NO. EDU 1409-12
AGENCY DKT. NO. 26-2/12

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The record of this matter and the Initial Decision of the OAL have been reviewed. Exceptions of petitioner and the respondents’ replies thereto – filed in accordance with the requirements of *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in reaching his determination herein.

Petitioner’s exceptions merely recast and reiterate his arguments advanced before the Administrative Law Judge (ALJ) below. As such exceptions raise no meritorious challenge to the ALJ’s Initial Decision recitation and determination, elaboration on petitioner’s submission is unnecessary here.

Upon full review and consideration, the Commissioner concurs with the ALJ – for the reasons presented in his Initial Decision – that this matter is appropriately dismissed for failure to state a claim upon which relief may be granted.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and the instant petition of appeal is hereby dismissed with prejudice.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 3, 2012

Date of Mailing: April 4, 2012

* 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*).