

**New Jersey Commissioner of Education**  
**Final Decision**

Eric Nathaniel Gordon,

Petitioner,

v.

Board of Education of the Township of Sparta,  
Sussex County,  
Respondent.

**Synopsis**

Petitioner, a tenured Spanish teacher, received a summative performance evaluation at the end of the 2020-2021 school year with a score of 2.04, which is a “partially effective” rating. The Board imposed a corrective action plan (CAP). Petitioner appealed, challenging the correctness of his evaluation and the lawfulness of the CAP. Petitioner also argued that the Board unlawfully withheld his salary increment for the 2021-2022 school year and alleged violations of various provisions of federal and State laws concerning discrimination. The petitioner filed the within appeal on October 12, 2021. The Board filed a motion to dismiss in lieu of an answer.

The ALJ found, *inter alia*, that: the Commissioner does not have jurisdiction over whether the Board’s actions violate the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*, the National Labor Relations Act, 29 U.S.C. § 151 *et seq.*, or the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*; the petition of appeal was untimely pursuant to N.J.A.C. 6A:3-1.3(i); and the doctrine of substantial compliance does not apply in this case. Accordingly, the ALJ granted the Board’s motion to dismiss the petition.

Upon a comprehensive review, the Commissioner concurred with the ALJ that she does not have jurisdiction over petitioner’s discrimination claims, as her authority is limited to controversies and disputes arising under New Jersey school laws, N.J.S.A. 18A:6-9; and further agreed that petitioner’s claims regarding his evaluation and CAP were untimely. Accordingly, the Commissioner concluded that the ALJ appropriately granted the Board’s motion to dismiss as it relates to petitioner’s discrimination, evaluation, and CAP claims. However, the Commissioner disagreed with the ALJ that petitioner’s claims regarding his salary increment are time-barred, as there is a genuine issue of material fact as to whether the Board actually withheld petitioner’s salary increment for 2021-2022 and, if so, when petitioner became aware of the withholding. Accordingly, the Commissioner denied the Board’s motion to dismiss as it relates to petitioner’s increment withholding claim and remanded the matter for further proceedings consistent with this decision.

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.

334-22

OAL Dkt. No. EDU 09328-21

Agency Dkt. No. 193-10/21

## New Jersey Commissioner of Education

### Final Decision

Eric Nathaniel Gordon,

Petitioner,

v.

Board of Education of the Township of  
Sparta, Sussex County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered. The parties did not file exceptions.

Petitioner, a tenured Spanish teacher, received a summative performance evaluation at the end of the 2020-2021 school year with a score of 2.04, which is a “partially effective” rating. The Board imposed a corrective action plan (CAP). Petitioner appealed, challenging the correctness of his evaluation and the lawfulness of the CAP. Petitioner also argued that the Board unlawfully withheld his salary increment for the 2021-2022 school year and alleged violations of various provisions of federal and State laws concerning discrimination. The Administrative Law Judge (ALJ) granted the Board’s motion to dismiss, concluding that the Commissioner does not have jurisdiction over whether the Board’s actions violate the Americans with Disabilities Act, 42 *U.S.C.* § 12101 *et seq.*, the New Jersey Law Against Discrimination, *N.J.S.A.* 10:5-1 *et seq.*, the National Labor Relations Act, 29 *U.S.C.* § 151 *et seq.*, or the Age Discrimination in Employment Act of 1967, 29 *U.S.C.* § 621 *et seq.* (collectively, the “discrimination claims”). The ALJ also concluded that the

petition of appeal was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)* and that the doctrine of substantial compliance does not apply.

Upon review, the Commissioner concurs with the ALJ that she does not have jurisdiction over petitioner's discrimination claims, as her authority is limited to controversies and disputes arising under New Jersey school laws. *N.J.S.A. 18A:6-9*. The Commissioner further agrees with the ALJ that petitioner's claims regarding his evaluation and CAP were untimely. The evaluation was dated June 4, 2021 and signed by petitioner on June 21, 2021. Even accepting the later date as the beginning date to calculate the 90-day deadline to appeal, that deadline expired on September 20, 2021, and the petition was not filed until October 12, 2021. Regarding petitioner's CAP, it was proposed to petitioner on June 16, 2021, and the 90-day deadline to appeal therefore expired on September 14, 2021. Pursuant to *Giannetta v. Bd. of Educ. of Egg Harbor*, Commissioner Decision 147-05 (April 25, 2005), any negotiations that occurred between petitioner and the Board regarding the CAP do not toll the time limitation. Furthermore, for the reasons detailed in the Initial Decision, the Commissioner concludes that the doctrine of substantial compliance does not apply. Accordingly, the Commissioner concludes that the ALJ appropriately granted the Board's motion to dismiss as it relates to petitioner's discrimination, evaluation, and CAP claims.<sup>1</sup>

However, the Commissioner disagrees with the ALJ that petitioner's claims regarding his salary increment are time-barred.<sup>2</sup> Petitioner's opposition to the motion to dismiss suggests that he became aware that his salary had not increased for the 2021-2022 school year when he received his first two checks in September 2021. If the Board did withhold petitioner's increment and

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<sup>1</sup> The claims are identified in items I, II, and III(a)-(i) of the section of the petition titled "Specific Allegations and Essential Supporting Facts."

<sup>2</sup> This claim is identified in item III(j) of the section of the petition titled "Specific Allegations and Essential Supporting Facts."

petitioner did not become aware of that fact until he received his checks in September 2021, the 90-day deadline to appeal had not expired when the petition was filed on October 12, 2021.<sup>3</sup> The Commissioner notes that the Board has represented, through a certification by petitioner's supervisor, that petitioner's salary increment for the 2021-2022 school year was not withheld. However, petitioner disputes the certification, such that there is a genuine issue of material fact that precludes dismissal of this claim.

Accordingly, the Initial Decision is modified as stated herein. The Board's motion to dismiss is granted as to petitioner's discrimination, evaluation, and CAP claims. The Board's motion to dismiss is denied as to petitioner's increment withholding claim. This matter is remanded to the OAL for further proceedings consistent with this decision.

IT IS SO ORDERED.

  
ANGELINA ALLEN-McMILLAN, J.D.S.  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 14, 2022

Date of Mailing: December 14, 2022

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<sup>3</sup> The record does not contain sufficient information to allow the Commissioner to reach a conclusion about when petitioner was on notice of the amount of his salary for the 2021-2022 school year. If, on remand, it is determined that the Board did withhold petitioner's salary increment for the 2021-2022 school year, the Board is free to present evidence demonstrating that petitioner was aware of that fact prior to September 2021 and to argue that this portion of the petition of appeal was also untimely.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**GRANTING MOTION TO DISMISS**

OAL DKT. NO. EDU 09328-21

AGENCY DKT. NO. 193-10/21

**ERIC NATHANIEL GORDON,**

Petitioner,

v.

**BOARD OF THE EDUCATION OF**

**THE TOWNSHIP OF SPARTA,**

**SUSSEX COUNTY,**

Respondent.

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**Damiano M. Fracasso**, Esq., for petitioner

**Marc H. Zitomer**, Esq., (Schenck, Price, Smith and King, attorneys) for respondent

Record Closed: February 18, 2022

Decided: November 3, 2022

BEFORE **IRENE JONES**, ALJ (ret. on recall):

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On October 12, 2021, petitioner, Eric Nathaniel Gordon (petitioner or Gordon), filed a petition with the State Board of Education challenging the correctness of his performance evaluation and the lawfulness of the associated corrective action plan

(CAP). Petitioner also alleged that the Board discriminated against him in compensation, conditions, and privileges of employment in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -50; discriminated against him because of his age in violation of N.J.S.A. 10:5-1 to -50; unlawfully failed to accommodate his disabilities, in violation of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.; subjected him to discriminatory treatment based on his union and organizing activities in violation of the National Labor Relations Act, 29 U.S.C. 151 to 169; engaged in an ultra vires act by imposing a performance evaluation in violation of N.J.A.C. 6A:10-2.1 et seq.; and unlawfully withheld his salary increment for the 2021–2022 school year.

On November 3, 2021, the respondent, the Board of Education of the Township of Sparta, Sussex County (the “District”) filed a motion to dismiss in lieu of an answer, pursuant to N.J.A.C. 6A:3-1.5(g).

On October 19, and November 4, 2021, the State Board of Education (State Board) accepted for filing the petition and motion to dismiss, respectively. On November 5, 2021, the State Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. A prehearing conference was held on December 21, 2021, wherein a procedural schedule was established. On February 18, 2022, petitioner filed an answer to the motion to dismiss.<sup>1</sup>

### **FINDINGS OF FACTS**

I **FIND** the following facts to be undisputed, thus they are adopted as the facts herein:

1. Petitioner was employed by the District as a Spanish teacher at Sparta High School. Petitioner was hired by the District in 2014 and is tenured.
2. Petitioner is a member of the Sparta Education Association.

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<sup>1</sup> In lieu of an answer, petitioner filed an “Opposition Certification.”

3. Petitioner's direct supervisor was Scott Kercher (Kercher), who is the K–12 supervisor of Social Studies, World Languages, and English as a Second Language for the District.
4. On June 4, 2021, Kercher prepared a "Summative Report" of petitioner's teaching performance for the 2020–2021 school year. The report gave petitioner an overall score of 2.04, which rated him as "partially effective."
5. Petitioner did not file an appeal from the evaluation.
6. A "partially effective" rating required that Kercher develop a CAP with the petitioner's input.
7. Kercher and petitioner, along with his union representative, met on June 16, 2021. Kercher gave them a draft CAP proposal for their review. The two reviewed the proposed CAP and suggested revisions.
8. The revised draft CAP was sent to the petitioner on September 12, 2021. A final CAP meeting was scheduled for September 14, 2021.
9. On September 13, 2021, petitioner's attorney sent a letter to the District superintendent requesting that petitioner be removed from the CAP to accommodate numerous disabilities.
10. The District and Kercher allege that they were unaware that petitioner had any disabilities or that he had previously requested any accommodations.
11. Petitioner met with Kercher on September 14 but refused to participate in the review and demanded that any further communications go through his attorney.
12. Petitioner asserts that he was denied a salary increment for the 2021–2022 school year.

13. The District denies that petitioner was denied an increment for the 2021–2022 school year. It asserts that petitioner’s increment was withheld by the prior superintendent for the 2019–2020 school year due to insubordination, failure to complete professional responsibilities, and attendance issues.

14. Petitioner refused to provide his medical records to Kercher but stated that he was willing to provide his medical records to a “District employee who is authorized and competent to grant him accommodation under LAD and ADA.”

### **LEGAL ARGUMENT**

The District moves to dismiss the petition on several grounds. First, it contends that the Commissioner does not have jurisdiction over claims arising under the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. It asserts that N.J.S.A. 18A:6-9 provides that the Commissioner “shall have jurisdiction to hear and determine . . . all controversies and disputes arising under the school laws . . .” The petitioner’s claims of disability do not arise under the school laws of New Jersey. The District relies on Fitzgibbons v. New Jersey State Board of Examiners, 2018 N.J. AGEN LEXIS 971, Initial Decision (August 8, 2018), aff’d, Commissioner (November 2, 2018), where a teacher’s assistant filed a petition of appeal with the Commissioner alleging that he was entitled to an exemption to a requirement for the issuance of a certificate due to a disability. He alleged that the denial of his request for an accommodation violated the Americans with Disabilities Act. The administrative law judge found that the Commissioner did not have jurisdiction to consider the issue, concluding:

The Commissioner of Education is without jurisdiction to consider claims arising under this Federal law [referring to the American with Disabilities Act]. The Commissioner’s jurisdiction is defined by statute and is limited to “controversies and disputes arising under the school laws.” N.J.S.A. 18A:6-9.

The administrative law judge (ALJ) granted the Board of Examiners’ motion to dismiss the claim for lack of jurisdiction. The Commissioner affirmed the decision, finding that



“the Commissioner does not have jurisdiction over whether the Board’s action violates the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., as his authority is limited to controversies and disputes arising under New Jersey school laws. N.J.S.A. 18A:6-9.”

The District further argues that the matter must be dismissed because the Commissioner has no jurisdiction over discrimination claims under the National Labor Relations Act (NLRA), 29 U.S.C. §§ 151 to 169, or under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634.

Moreover, the District asserts that the courts have regularly determined that federal civil-rights actions do not fall within the jurisdiction of the Commissioner. See Cirasa v. State-Operated Sch. Dist. of Paterson, 1993 N.J. AGEN LEXIS 1810, aff’d, No. A-2408-93T2 (App. Div. January 10, 1995). In Cirasa, school employees sought to litigate before the Commissioner of Education, in pertinent part, “various claims arising under assorted federal civil rights and antidiscrimination laws,” with one of those laws being the Age Discrimination in Employment Act of 1967. The ALJ found that, “[i]n general, state administrative agencies lack subject matter jurisdiction over federal civil rights actions.” On final review, the Commissioner affirmed.

Petitioner contends that the District violated the law by imposing a CAP on him for the 2021–2022 school year. See Petition ¶¶ I and II. The District rebuts this contention, arguing that it had the lawful authority to impose a corrective action plan pursuant to N.J.A.C. 6A:10-2.5(a). The regulation provides:

For each teaching staff member rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, a corrective action plan shall be developed by the teaching staff member and the teaching staff member’s designated supervisor. If the teaching staff member does not agree with the corrective action plan’s content, the designated supervisor shall make the final determination.

[Emphasis added.]

Petitioner does not dispute that he received a cumulative evaluation rating of 2.04 on the 2020–2021 summative evaluation. This score falls under the category of “partially effective.” Respondent contends that as a result, Kercher was legally obligated to develop a corrective action plan for petitioner for the 2021–2022 school year. While Kercher made every effort to make the CAP development process as collaborative as possible, petitioner was mostly uncooperative outside of the first CAP meeting in June 2021. Kercher included petitioner’s input from the first meeting into the draft of the CAP. When petitioner refused to cooperate, Kercher fulfilled his regulatory duty by making a final determination pursuant to N.J.A.C. 6A:10-2.5(a).

The District further asserts that petitioner’s LAD claims are without merit, as they fail to state a cause of action under the LAD. Petitioner has not suffered any loss of compensation, terms, conditions, or privileges of employment. Petitioner did not have an increment withholding for the 2021–2022 school year, he holds the same position as a Spanish teacher as he held the previous school year, and he has all the same privileges in his position that he had prior to this school year.

Further, the District argues that the petition fails to state a single specific incident that forms the basis of the alleged discriminatory conduct. N.J.A.C. 6A:3-1.4(a) states, in pertinent part, that “[a] petition shall include . . . a statement of the specific allegation(s) and essential facts supporting them that have given rise to a dispute under the school laws. . . . The petition should also cite, if known to petitioner, the section or sections of the school laws under which the controversy has arisen.” Moreover, “[w]hile a court will accept well-pled allegations as true for the purpose of the motion [here, a petition of appeal], it will not accept bald accusations, unsupported conclusions, unwarranted inferences, or sweeping legal conclusions cast in the form of factual allegations.” Ayala v. N.J. Dep’t of Law & Pub. Safety, 2011 N.J. Super. Unpub. LEXIS 2663 at \*9 (App. Div. 2011). Petitioner merely re-states the LAD statutory language without so much as a single specific discriminatory allegation. Petitioner has neither provided the “specific allegation(s) and essential facts” nor identified “the section or sections of the school laws under which the controversy has arisen.”

The petitioner asserts that the District's imposition of the annual performance report and rubric was an ultra vires act in violation of the regulations and the Board's policies and procedures. The District moves to dismiss this contention, as it is time barred. It notes that Kercher prepared the 2020–2021 summative evaluation on June 4, 2021, and it was signed by the petitioner on June 21, 2021. N.J.A.C. 6A:3-1.3(i) governs the filing of an action arising under the school laws, and states in pertinent part:

The petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing.

In Kaprow v. Board of Education of Berkeley Township, 131 N.J. 572, 582 (1993), the New Jersey Supreme Court held that the Commissioner and the State Board of Education have the authority to establish a time limitation for the resolution of disputes arising under the school laws. The Court addressed the public policy reasons behind the 90-day rule:

The limitations period provides a measure of repose, an essential element in the proper and efficient administration of the school laws. It stabilizes the relationship between the teachers and the administration. . . . The limitation period gives school districts the security of knowing that administrative decisions regarding the operation of the school cannot be challenged after ninety days.

[ibid.]

Thus, the Kaprow decision provides that the notice requirement set forth in the regulation should accommodate the dual purposes of the 90-day limitation period:

The first is to stimulate litigants to pursue a right of action within a reasonable time so that the opposing party may have a fair opportunity to defend, thus preventing the litigation of the stale claims. The second purpose is “to penalize dilatoriness and serve as a measure of repose” by giving security and stability to human affairs.

[Id. at 587 (citations omitted).]

In Kous v. Old Bridge Township Board of Education, Middlesex County, 2012 N.J. AGEN LEXIS 116 (March 2, 2012) at \*10 (citations omitted), aff'd, 2012 N.J. AGEN LEXIS 595 (April 3, 2012), the administrative law judge held that “[t]ime-bars in litigation before the Commissioner are promulgated for a reason, and are uniformly enforced. These time limitations are strictly enforced—at times to the detriment of a litigant filing an action two days too late.” Accord Coles v. Bayonne Bd. of Educ., 2008 N.J. Super. Unpub. LEXIS 2593 (App. Div. 2008) at \*3–4 (citation omitted) (“The 90-day rule for petitions to the Commissioner has been strictly construed.”). The District asserts that there are no circumstances here that would justify relaxing the 90-day rule. Even accepting June 21, 2021, the date on which petitioner signed his 2020–2021 summative evaluation, as the date that the clock began ticking, petitioner would have been required to file an appeal by September 20, 2021, at the latest. The instant petition was not filed until October 12, 2021.

Finally, the District moves to dismiss the petitioner’s allegation that he was denied a salary increment for the 2021–2022 school year. Respondent asserts that it did not withhold the respondent’s salary increment for the 2021–2022 school year. The withholding took place in the 2019–2020 school year, from which the petitioner did not file an appeal. In any event, the District asserts that the claim is time barred.

Petitioner filed an “Opposition Certification” to the motion to dismiss. The certification denies that this tribunal and the Commissioner lack subject-matter jurisdiction. Petitioner concludes that it is within the discretion of this tribunal “as to whether it is satisfied that it has subject matter jurisdiction over these claims.” Petitioner denies that he has failed to state a claim or cause of action and generally states that his pleadings and 129 exhibits attached to his petition exceed the pleading requirements in N.J.A.C. 6A:3-1.4(a).

Further, petitioner concedes that the District had the authority to impose a CAP, but asserts that there was no bona fide factual basis for the annual performance report.

Petitioner further asserts that he was indeed denied an increment for the 2022–2021 school year, and relies on exhibits ENG 120, 121 and ENG 122, 123. The paychecks are for two different years, but the amounts remain the same.

Petitioner denies that this matter is time barred. In support, petitioner relies on the matter of D. R. Horton, Inc.—New Jersey v. New Jersey Department of Environmental Protection, 383 N.J. Super. 405, 408–09 (App. Div. 2006) (citation omitted), which holds that “a time limitation on a party requesting an adjudicatory hearing . . . is also subject to the substantial compliance doctrine, even though that limitations period has been characterized as ‘mandatory and jurisdictional.’” In the instant case, the purposes underlying the 90-day filing requirement are not undermined by application of the substantial-compliance doctrine. Petitioner asserts that he meets the required criteria for application of the doctrine.

Petitioner also asserts that he was “constructively terminated” from his position on January 21, 2022. He was forced to resign because of various violations to his rights and a hostile work environment.<sup>2</sup>

### **FINDINGS AND CONCLUSIONS**

The law is clear that a matter is justiciable before this tribunal only if jurisdiction exists. Here, the District asserts that the matter must be dismissed because the Commissioner lacks jurisdiction over ADA and LAD matters. N.J.S.A. 18A:6-9 confers jurisdiction to the Commissioner of Education over controversies and disputes arising under the school laws of New Jersey. The ADA is a federal law, 43 U.S.C. §§ 12101 et seq., applicable to the states via the Fourteenth Amendment. As noted by the District and undisputed by the petitioner, the Commissioner has affirmed that the Commissioner has no jurisdiction over ADA claims since the dispute does not arise under the school laws. See Fitzgibbons, 2018 N.J. AGEN LEXIS 971. Thus, I **FIND** and **CONCLUDE** that petitioner’s claims of ADA and LAD disability discrimination must be dismissed due to a lack of jurisdiction.

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<sup>2</sup> This allegation was not a part of the petition and therefore it will not be addressed on the merits.

I further **FIND** and **CONCLUDE** that the Commissioner does not have jurisdiction over the matters concerning the NLRA disputes. As the District aptly argues, petitioner's claim that he was subject to discrimination because of his union activities and his age under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634, are federal claims that are outside of the jurisdiction of the Commissioner. Notably, petitioner has not distinguished or disputed the holding in Cirasa that makes clear that the Commissioner does not have jurisdiction over NLRA and age-discrimination matters.

I **FIND** that the filing of the instant petition was untimely. N.J.A.C 6A:3-1.3(i) provides that a petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action taken by the district board of education. Here, petitioner concedes that his petition was filed well outside of the required 90-day timeframe. Petitioner requests application of the substantial-compliance doctrine as set forth in D. R. Horton, 383 N.J. Super at 408–09. To establish substantial compliance, a party must show: “(1) the lack of prejudice to the defending party; (2) a series of steps taken to comply with the statute involved; (3) a general compliance with the purpose of the statute; (4) a reasonable notice of petitioner's claim; and (5) a reasonable explanation why there was not a strict compliance with the statute.” Bernstein v. Bd. of Trs., 151 N.J. Super. 71, 76–77 (App. Div. 1977). The District argues that it will be prejudiced if the doctrine is imposed. Further, it notes that petitioner failed to provide notice to the District and failed to explain why he filed the claim beyond the 90-day limitation. As the District argues, the D. R. Horton case is factually distinguishable from the instant matter. In that matter, the appellant mailed a request for a hearing to the New Jersey Department of Environmental Protection (DEP) four days prior to the expiration of the statute of limitations. However, the post office did not deliver the request to the DEP until six days later, and, thus, the DEP denied the request for a hearing because it received the request two days late. The Appellate Division found that the purposes of the limitation statute were “not undermined by the application of [the substantial-compliance doctrine] that allows a challenge to agency action to be maintained where the aggrieved party has taken reasonable steps to initiate the challenge within the prescribed period, but the agency has failed to receive timely notice of the challenge due to circumstances beyond the aggrieved party's control.” Id. at 409.

I am not persuaded that there exists a reason for application of the doctrine here, as the events surrounding this matter were in the total control of the petitioner and his attorneys. The petition could have been filed before or during the negotiations with the District, thereby preserving the petitioner's rights. Further, I am persuaded that the District will in fact be prejudiced if the doctrine is applied here. Thus, I **FIND** and **CONCLUDE** that the petition, inclusive of CAP and salary-increment claims, must be dismissed, as the claims were filed outside of the 90-day time limitation.

**ORDER**

For the foregoing reasons, this matter is hereby **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 3, 2022



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DATE

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**IRENE JONES**, ALJ (ret. on recall)

Date Received at Agency:

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11/3/22

Date Mailed to Parties:

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11/3/22

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