

#347-10 (OAL Decision: Not yet available on-line)

QUANDA FUDD, :  
 :  
 PETITIONER, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 BOARD OF TRUSTEES OF THE : DECISION  
 TRENTON COMMUNITY CHARTER :  
 SCHOOL, MERCER COUNTY, :  
 EDWIN LLOYD AND LENORA GREEN, :  
 :  
 RESPONDENTS. :  
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SYNOPSIS

Petitioner challenged the abolishment of her position as school director and non-renewal of her employment during a reorganization, alleging bad faith and violation of tenure and due process rights. Respondent Board asserted that petitioner’s appeal was not timely filed, and filed a motion for summary decision.

The ALJ found that: there are no genuine issues of material fact and the matter is ripe for summary decision; petitioner had sufficient notice by May 19, 2009 of the Board’s intent to eliminate her position at the close of the 2008-2009 school year; pursuant to *N.J.A.C. 6A:3-1.3(i)*, a petition of appeal must be filed no later than 90 days from the date of receipt of notice of a final action of the Board, which in this case would be August 17, 2009; and petitioner did not file her appeal until October 7, 2009. Accordingly, the ALJ granted the Board’s motion to dismiss the appeal for failure to comply with the 90 day rule.

Upon review of the record, the Commissioner adopted the Initial Decision as the final decision in this matter, noting that counsel for petitioner failed to submit exceptions to the ALJ’s decision despite being granted two extensions of time to submit same.

<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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August 27, 2010

OAL DKT. NO. EDU 12067-09  
AGENCY DKT. NO. 279-10/09

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Upon review of the record and Initial Decision in this matter the Commissioner adopts the Initial Decision as the final decision, for the reasons set forth therein.<sup>1</sup>

Accordingly, respondent's motion for summary decision is granted and the petition is dismissed.

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

COMMISSIONER OF EDUCATION

Date of Decision: August 27, 2010

Date of Mailing: August 27, 2010

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<sup>1</sup> Pursuant to *N.J.A.C.* 1:1-18.4(a), the parties have 13 days from the mailing of the Initial Decision to file exceptions. In the present case exceptions were due by July 27, 2010. On that date, petitioner's counsel asked for an extension to August 10, 2010 to file exceptions, and same was granted. On August 9, 2010, petitioner's counsel asked for a further extension of one week to file extensions. An extension to August 17, 2010 was granted, but no exceptions were filed on that date.

<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L.* 2008, *c.* 36.