

#25-10 (OAL Decision: Not yet available online)

MARIA COLLAZO, :  
 :  
 PETITIONER, : COMMISSIONER OF EDUCATION  
 :  
 V. : DECISION  
 :  
 BOARD OF EDUCATION OF THE CITY :  
 OF ELIZABETH, UNION COUNTY, :  
 :  
 RESPONDENT. :  
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### SYNOPSIS

Petitioner – a substitute paraprofessional employed by the respondent Board – filed a petition in January 2009, asserting that she is entitled to permanent full-time employment in the district. Petitioner had previously been employed in a permanent full time paraprofessional position, but her employment in that capacity ended in 2006 after she was unsuccessful in meeting new NCLB-mandated standards for instructional support for students. The Board contended it is under no legal obligation to employ petitioner, and that her petition was not timely filed and should therefore be dismissed.

The ALJ found that: the petitioner was not offered a contract for the 2006-2007 school year because she did not have the NCLB-mandated higher education credits and had not yet passed the ParaPro Assessment exam through which paraprofessionals could meet NCLB requirements; petitioner was offered reemployment by the district as a substitute paraprofessional after she passed the ParaPro Assessment in June 2007, and she returned as a substitute in September 2007; petitioner first learned that she would not be offered continued employment prior to the commencement of the 2006-2007 school year, but did not file the instant petition until January 2009; and petitioner’s claim is clearly out of time and must be dismissed for failure to comply with the requirements of *N.J.A.C. 6A:3-1.3(i)*. The ALJ additionally found that even if the petition had been timely filed, the petitioner has no legal entitlement to continued employment. The ALJ concluded that petitioner’s appeal should be dismissed.

The Commissioner concurred with the ALJ that this matter must be dismissed in light of petitioner’s failure to timely file her claim, additionally noting that she served in a nontenurable position. Accordingly, 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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January 27, 2010

OAL DKT. NO. EDU 3936-09  
AGENCY DKT. NO. 48-3/09

MARIA COLLAZO, :  
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 PETITIONER, : COMMISSIONER OF EDUCATION  
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.<sup>1</sup>

Upon review, the Commissioner concurs with the Administrative Law Judge that this matter must be dismissed in light of petitioner's failure to timely file her petition. The Commissioner finds it unnecessary to reach that portion of the Initial Decision discussing petitioner's right to continued employment, other than to note that petitioner served in a position that was not only nonprofessional, as stated by the ALJ, but nontenurable as well.

Accordingly, the Initial Decision of the OAL dismissing the appeal is adopted as the final decision in this matter.

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

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 27, 2010

Date of Mailing: January 27, 2010

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<sup>1</sup> On January 14, 2010, petitioner filed a letter indicating that she had read the decision of the Administrative Law Judge and would no longer be pursuing action in this matter.

<sup>2</sup> Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Appellate Division of the Superior Court.