

MUSTANGS TRAVEL SPORTS CLUB, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE :  
BOROUGH OF MOUNTAIN SIDE, :  
UNION COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioning sports club filed an appeal alleging that the respondent arbitrarily classified the club as a “Group Four” organization pursuant to the Board’s facilities usage policy. Under this policy, “Group Four” organizations are assessed fees for use of district playing fields and facilities according to a fee schedule. Petitioner sought re-classification as a “Group One” organization, which would entitle the club to use the Board’s school athletic fields without charge. The petitioner’s appeal was filed in August 2011 as a motion for emergent relief, which was denied for failure to demonstrate entitlement to such relief pursuant to *Crowe v. DeGioia*, 90 N.J. 126 (1982). The Board contended that petitioner did not meet the criteria for classification as a “Group One” organization, and that the Board’s final decision in this regard was rendered at an April 5, 2011 Board of Education meeting, when a resolution was passed denying the Mustangs “Group One” status; accordingly, the Board argued that the petitioner’s appeal – filed August 18, 2011 – is time-barred by *N.J.A.C. 6A:3-1.3*.

The ALJ found that the petition was filed out of time, and concluded that the matter must be dismissed. In so doing, the ALJ appended her August 26, 2011 Order denying emergent relief to the Initial Decision as reference.

Upon full consideration, the Commissioner concurred with the ALJ that the instant matter was untimely filed, and dismissed the petition.

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.

OAL DKT. NO. EDU 9886-11  
AGENCY DKT. NO. 234-8/11

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DECISION

Upon review of the record and Initial Decision of the Office of Administrative Law,<sup>1</sup> the Commissioner concurs with the Administrative Law Judge that the instant matter was untimely filed. The petition is accordingly dismissed.

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

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 1, 2011

Date of Mailing: December 2, 2011

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<sup>1</sup> Neither party filed exceptions.

<sup>2</sup> 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)