

A.S. and M.S., on behalf of minor child, J.S., :
PETITIONERS, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
GLOUCESTER COUNTY INSTITUTE
OF TECHNOLOGY, :
GLOUCESTER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioners challenged the March 2014 action of the respondent, the Gloucester County Institute of Technology (GCIT), denying J.S. entry into the school’s Fall 2014 Cosmetology Program based on petitioner’s failure to meet the eligibility criteria. The respondent filed a motion for summary decision, seeking dismissal of the petition on the grounds that petitioner failed to file within the ninety-day time limit for the filing of appeals, pursuant to *N.J.A.C. 6A:3-1.3(i)*. Petitioner claimed, *inter alia*, that the respondent’s action was a denial of equal protection of the laws under the U.S. and N.J. constitutions, and sought a waiver of the time restriction based upon this argument.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; the petitioner had notice of the Board’s determination denying J.S. admission into the cosmetology program on March 15, 2014, but did not file the petition until November 26, 2014 – well beyond the ninety-day time frame set forth at *N.J.A.C. 6A:3-1.3(i)*; the facts in this case show that GCIT properly determined that J.S. did not meet the school’s admission criteria for the cosmetology program; GCIT did not act in an arbitrary or capricious manner in considering J.S.’s eligibility for the program; and petitioner has failed to demonstrate entitlement to a waiver of the 90-day time limit for the filing of an appeal. The ALJ concluded that the within petition was not timely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*; accordingly, the ALJ granted the Board’s motion for summary decision, and dismissed the petition.

Upon comprehensive review, the Commissioner concurred with the findings and conclusions of the ALJ; accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter and the petition was dismissed.

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.

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioners and the Gloucester County Institute of Technology's (GCIT) reply thereto.

Upon review, the Commissioner concurs with the Administrative Law Judge's (ALJ) determination – for the reasons stated in the Initial Decision – that the petition of appeal was time barred under *N.J.A.C.* 6A:3-1.3(i). Although it is undisputed that the petition was filed well beyond the 90-day limitations period, the petitioners maintain that the 90-day period should be relaxed because this matter involves constitutional issues of public concern. Despite their claim to the contrary, the petitioners have failed to present any exceptional circumstances that might justify a finding that strictly adhering to the 90-day rule would result in injustice. *Kaprow v. Board of Education of Berkeley Tp.*, 131 *N.J.* 572, 590 (1993); *N.J.A.C.* 6A:3-1.16. The Commissioner is also not persuaded that the exceptions submitted by the petitioners dictate a different result, as the arguments advanced by the petitioners in their exceptions were considered and fully addressed by the ALJ in the Initial Decision.

Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.¹

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: June 20, 2016

Date of Mailing: June 21, 2016

¹ Since the petition of appeal was untimely filed, it was not necessary to evaluate whether GCIT's decision was arbitrary, capricious or unreasonable.

² 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*).