

ROSA POWELL, DAVID DEAN, ROXIE FOSTER, :
 SERGE BRAIDA, ROBERT OLSEN, ELENA :
 ROBERTS, MAGDALENE NICHOLS, AUDREY :
 LEVY, HELEN SCHWARTZ, PATRICIA :
 D'ANDREA CILIBERTI, KATHERINE BURNO, :
 ELAINE O'CONNELL, THERESA D'ELIA AND :
 GEORGE HETTERSHEIMER, :

 PETITIONERS, : COMMISSIONER OF EDUCATION

 V. : DECISION

 STATE-OPERATED SCHOOL DISTRICT :
 OF THE CITY OF JERSEY CITY, HUDSON :
 COUNTY, :

 RESPONDENT. :

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SYNOPSIS

In consolidated matter, petitioners, school employees who suffered allegedly work-related injuries, contended the District wrongfully deducted sick days from their sick leave banks in violation of *N.J.S.A.* 18A:30-2.1.

ALJ concluded that petitioners' claims were untimely because each petitioner failed to file his or her petition with the Commissioner of Education within 90 days from the date he or she was first put on notice that the absences in question would be treated as due to personal illness. Thus, petitioners failed to comply with *N.J.A.C.* 18A:6-1.2(c), the 90-day rule, and there was no cause for relaxation of the rule. Further, the ALJ determined that the District was not estopped from raising the 90-day rule as a defense to this action. Petitions for restoration of sick days were dismissed.

Commissioner adopted findings and determination in initial decision as his own. Petitions were dismissed.

JULY 17, 1998

OAL DKT. NOS. EDU 9048-96, 9049-96,
9051-96, 9053-96, 9054-96, 9055-96, 9320-96,
9321-96, 9724-96, 9725-96, 9727-96, 9728-96,
9729-96 AND 9730-96 (Consolidated)

AGENCY DKT. NOS. 290-7/96, 291-7/96, 293-7/96,
295-7/96, 296-7/96, 289-7/96, 311-7/96, 313-7/96,
385-8/96, 358-8/96, 369-8/96, 357-8/96, 354-8/96
AND 355-8/96

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The record of this consolidated matter and the initial decision of the Office of Administrative Law have been reviewed. Petitioners' exceptions were untimely filed pursuant to *N.J.A.C. 1:1-18.4(a)*, in that the initial decision was mailed to the parties on June 4, 1998 and the exceptions were filed on June 22, 1998. Accordingly, neither the exceptions nor the reply thereto is considered in the Commissioner's determination of this matter.

Upon careful and independent review, the Commissioner concurs that the within Petitions of Appeal are properly dismissed as untimely pursuant to *N.J.A.C. 6:24-1.2(c)*, that there is no cause for relaxation of the 90-day rule, and that respondent is not estopped from raising the 90-day rule as a defense to these actions.

Accordingly, the initial decision of the ALJ is adopted for the reasons expressed therein and the within petitions are dismissed.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

JULY 17, 1998

* This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.