

E.G.M., on behalf of minor child, J.M., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF MAHWAH,  
BERGEN COUNTY, :  
RESPONDENT. :

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SYNOPSIS

The petitioning parent, E.G.M., challenged the application of the respondent Board’s Anti-Bullying Policy as it pertained to her daughter, J.M., after petitioner filed a harassment, intimidation and bullying (HIB) complaint alleging that J.M. – then a kindergarten student in the Board’s school district – was harassed on the school bus in March and May 2012. Petitioner initially appealed the May 2012 decision to the Mahwah school board, which heard the matter in executive session on June 27, 2012. The Board affirmed the determination of the school that the matter was not a confirmed case of HIB and so notified the petitioner in a July 5, 2012 letter, which advised that – pursuant to *N.J.A.C. 6A:3-1.1 et seq.* – the Board’s decision could be appealed to the Commissioner within ninety days. The within petition was filed on January 8, 2013. The Board filed a motion to dismiss, contending that the matter is time-barred. Petitioner failed to oppose the Board’s motion.

The ALJ found, *inter alia*, that: although respondent Board filed a motion to dismiss rather than a motion for summary decision, the same principles apply; there are no material facts at issue in this case, and the matter is ripe for summary decision; petitioner’s appeal regarding the March 2012 incident was defective in that she failed to exhaust her administrative remedies before the respondent Board before seeking administrative relief from the Commissioner; furthermore, petitioner’s appeal with regard to that incident as well as the one which occurred in May 2012 should be dismissed pursuant to *N.J.A.C. 6A:3-1.3(i)*, which requires that a petition be filed no later than the 90<sup>th</sup> day after the date of receipt of notice of a final action; in this case, petitioner did not attempt to correct the deficiencies in her original submission until January 8, 2013; accordingly, the petition was filed out of time. The ALJ granted the Board’s motion and dismissed the petition.

Upon review, the Commissioner concurred with the ALJ that the instant petition of appeal was filed well outside the 90-day limitation period. Accordingly, the Commissioner adopted the Initial Decision as the final decision in this matter.

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.

May 21, 2013

OAL DKT. NO. EDU 2119-13  
AGENCY DKT. NO. 3-1/13

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon his comprehensive consideration, the Commissioner concurs with the Administrative Law Judge (ALJ) that summary decision is appropriately granted to the Board as the instant petition of appeal was filed well outside the 90-day limitation period set forth in *N.J.A.C. 6A:3-1.3(i)*, and the record provides no reason whatsoever for relaxation of this rule.

Accordingly, the recommended decision of the OAL is adopted for the reasons clearly presented therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: May 21, 2013

Date of Mailing: May 21, 2013

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\* 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)*.