

BOARD OF EDUCATION OF THE TOMS RIVER :
REGIONAL SCHOOL DISTRICT,
OCEAN COUNTY, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE CENTRAL : DECISION
REGIONAL SCHOOL DISTRICT,
OCEAN COUNTY, :

RESPONDENT. :

SYNOPSIS

On April 30, 2014, the petitioning Board filed an appeal contending that the Board of Education of the Central Regional School District (Central) is obligated to pay the Toms River Regional School District (Toms River) tuition purportedly due and owing for students identified as homeless as a result of Super Storm Sandy (Sandy). The eleven (11) students in question resided in Seaside Park – located within Central’s district – before becoming homeless after Super Storm Sandy and taking up temporary residences in Toms River. The respondent Board filed a motion to dismiss the petition as untimely pursuant to *N.J.A.C. 6A:3-1.3*, and also asserted that the petition failed to state a claim for which relief can be granted.

The ALJ found, *inter alia*, that: Toms River alleged that Central was responsible for tuition for eleven (11) students who had resided in Seaside Park, but were displaced to Toms River in the aftermath of Sandy; Toms River also acknowledged, however, that prior to Sandy, these eleven students were already attending Toms River schools as “parent paid” tuition students while residing in Seaside Park; thus the initial attendance by these students in petitioner’s schools was unrelated to the devastation wrought by Sandy in October 2012; Toms River also acknowledged that on December 4, 2013, the Ocean County Interim Executive County Superintendent advised by letter that the parents of the students in question were responsible for tuition for the 2012-2013 school year at Toms River, and that Central was not responsible; the 90-day window to file the within appeal began on or shortly after December 4, 2013; accordingly, the petition was filed out of time pursuant to *N.J.A.C. 6A:3-1.3*; and there exists no unusual or compelling circumstances that would justify relaxation of the 90-day rule. The ALJ concluded that the petition must be dismissed as untimely.

Upon full consideration, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter. 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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October 14, 2014

OAL DKT. NO. EDU 8237-14
AGENCY DKT. NO. 144-6/14

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OCEAN COUNTY, :
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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 full consideration, the Commissioner concurs with the Administrative Law Judge that the instant petition is appropriately dismissed because it was filed outside the 90-day limitation period set forth in *N.J.A.C. 6A:3-1.3(i)*. The Commissioner, likewise concurs that petitioner has failed to set forth any compelling reason to relax the timely filing requirement.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons stated therein, and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 14, 2014

Date of Mailing: October 15, 2014

* 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)*.