

#231-15 (OAL Decision: Not yet available online)

ALBERT J. FIELDS, JR., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 SALEM COUNTY VOCATIONAL :
 SCHOOLS, SALEM COUNTY AND :
 MARIE ALLEVA, :
 :
 RESPONDENTS. :
 _____:

SYNOPSIS

Petitioner herein was referred by the Salem County One Stop Career Center (One Stop) to participate in the Salem County Vocational School’s Medical Assistant/Multi-Skilled Technician program, one of the district’s adult education programs. Subsequent to his completion of Phases I and II of the program, petitioner was notified on June 25, 2014 that he was disqualified from participating in the Phase III externship for failure to disclose his criminal history. On June 26, 2014, petitioner filed a tort claim notice , and thereafter filed successive litigation in Superior Court. On February 2, 2015, petitioner filed the within appeal, seeking \$4,000 in damages based on tuition payments made by the One Stop agency on his behalf, as well as \$7,000 to compensate him for footwear, uniforms, school supplies and lost contract benefits. The respondent filed a motion to dismiss in lieu of an answer, asserting that petitioner’s claims are time-barred pursuant to *N.J.A.C. 6A:3-1.3(1)*.

The ALJ found, *inter alia*, that: petitioner was notified on June 26, 2014 that he was rejected by the externship due to his undisclosed criminal history, and this date starts the 90 day clock under *N.J.A.C. 6A:3-1.3*; petitioner had adequate notice of the action taken by the district; petitioner chose to file claims in Superior Court instead of filing with the Commissioner, and only after his claims were dismissed by the Court did he file the within appeal; petitioner’s appeal needed to be filed by September 24, 2014 in order to comply with the 90-day rule; the instant petition was filed on February 2, 2015, which was 131 days beyond the deadline for the filing of an appeal. The ALJ concluded that the petition is untimely and that there are no reasons to waive or relax the time limits set forth in *N.J.A.C. 6A:3-1.3*. Further, petitioner was verbally warned by the Vocational School staff several times that he had to be truthful about his criminal history, and was also received written warning in the program forms that he executed that he had to divulge information about any criminal history or there would be consequences for the externship program. The ALJ granted the respondent’s motion to dismiss the matter as untimely, and dismissed the petition.

The Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this matter. Accordingly, 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.

July 7, 2015

OAL DKT. NO. EDU 2562-15
AGENCY DKT. NO. 19-2/15

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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 petitioner, Albert Fields, and the Salem County Vocational School’s 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). The Commissioner is not persuaded that the exceptions submitted by the petitioner dictate a different result, as the arguments advanced by the petitioner in his 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.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: July 7, 2015

Date of Mailing: July 8, 2015

¹ 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).