

#71-16 (OAL Decision: Not yet available online)

ASSADOUR CHOUNGOURIAN, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE BOARD OF : DECISION
EXAMINERS, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appealed determination of the respondent – the State Board of Examiners (SBE) – that he had not met the requirements for issuance of a School Psychologist certificate. Petitioner was notified of the SBE’s determination by letter mailed on October 29, 2014, and initially submitted his *pro se* appeal on January 16, 2015; however, his appeal was not perfected until April 2015, despite notifications that the petition was incomplete. The SBE subsequently filed a motion for summary decision based on petitioner’s failure to adhere to the 90-day time frame for the submission of appeals set forth in *N.J.A.C. 6A:3-1.3*.

The ALJ found, *inter alia*, that: pursuant to *N.J.A.C. 6A:3-1.3(i)*, a petitioner must file a petition of appeal no later than the ninetieth day from the date of receipt of the notice of a final order, ruling or other action by the individual or agency that is the subject of the requested contested case hearing; a petitioner must also file proof of service on each respondent pursuant to *N.J.A.C. 6A:3-1.3(a)* and (h); the Commissioner may relax certain rules regarding controversies and disputes if “strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice,” *N.J.A.C. 6A:3-1.16*; it is clear from the applicable regulations that the filing of a petition is not complete until the required service has been made upon the parties to the action, and in the case of the SBE, the Division of Law must be served as well, *N.J.A.C. 6A:3-1.3(j)*; in the instant matter, petitioner failed to perfect the required service until months beyond the 90-day time frame despite communications which specifically set forth the requirement; and petitioner has set forth no compelling reason or explanation for his failure to complete such service. The ALJ concluded that the petitioner’s appeal is time-barred. Accordingly, the SBE’s motion to dismiss was granted and the petition was dismissed.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusion. Accordingly, the Initial Decision 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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February 16, 2016

OAL DKT. NO. EDU 8546-15
AGENCY DKT. NO. 81-4/15

ASSADOUR CHOUNGOURIAN, :
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NEW JERSEY STATE BOARD OF : DECISION
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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge's determination that the petition of appeal was time-barred under *N.J.A.C. 6A:3-1.3(i)*. 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: February 16, 2016

Date of Mailing: February 17, 2016

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*).