

New Jersey Commissioner of Education
Final Decision

T.C.C.,

Petitioner,

v.

Board of Education of the Township of Mount Olive,
Morris County, Sumit Bangia, Jaqueline Bello, Mark
Grilo, Rebecca Hopler, and Christina Capone,

Respondents.

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

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) — for the reasons presented in the Initial Decision — that T.C.C.’s petition is time-barred pursuant to *N.J.A.C. 6A:3-1.3(i)*. Petitioner has not asserted that extraordinary circumstances warrant an extension of the 90-day limitation period, and none can be gleaned from the record.

Accordingly, the Initial Decision is adopted as the final decision in this matter. Respondents’ motion to dismiss is granted and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: March 7, 2025
Date of Mailing: March 7, 2025

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 14056-24

AGENCY DKT. NO. 262-8/24

T.C.C.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE
TOWNSHIP OF MOUNT OLIVE,
MORRIS COUNTY, SUMIT BANGIA,
JAQUELINE BELLO, MARK GRILO,
REBECCA HOPLER, AND
CHRISTINA CAPONE,**

Respondents.

T.C.C., petitioner, pro se

Costadinos J. Georgiou, Esq., for respondents (Lenox, Socey, Formidoni, Giordano,
Lang, Carrigg & Casey, attorneys)

Record Closed: November 25, 2024

Decided: December 18, 2024

BEFORE **KIMBERLY K. HOLMES, ALJ:**

STATEMENT OF THE CASE

On August 29, 2023, respondent Board of Education advised petitioner that it had taken no action on petitioner's harassment, intimidation, and bullying (HIB) complaint because petitioner had not filed a written complaint. On August 10, 2024, petitioner filed his petition of appeal with the Department of Education. Is the petition time-barred? "Yes." Under N.J.A.C. 6A:3-1.3(i), absent exceptional circumstances, a petitioner must file a petition no later than the ninetieth day of a board's final action.

PROCEDURAL HISTORY

On August 29, 2023, respondent notified petitioner that it took no action regarding an alleged verbal HIB complaint because petitioner had not filed a written complaint.

On August 10, 2024, petitioner filed an appeal with the Department of Education, Bureau of Controversies and Disputes. On September 12, 2024, respondent filed a motion to dismiss under N.J.A.C. 6A:3-1.3(i). On September 30, 2024, the Bureau transmitted this case to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -13.

On October 21, 2024, I held an initial prehearing conference and established a briefing schedule for the motion to dismiss. Any opposition to the motion was due on November 15, 2024, and any reply was due on November 25, 2024. Petitioner, who appeared for the prehearing conference never filed any opposition and appeared at the follow-up telephone conference on November 25, 2024.

FINDINGS OF FACT

Based on the documents submitted in support of the motion to dismiss, I **FIND** the following as **FACT** for purposes of this motion:

1. Petitioner is a former chief school administrator. Petitioner's ex-wife is employed by respondent. Their minor child attends school at the Mount Olive School District.
2. In March 2023, petitioner contacted his ex-wife and her colleague, another teacher employed by the board, regarding their minor child. (Exhibit C.) The teacher notified respondent about the education and well-being concerns petitioner mentioned regarding his child who was her student.
3. On March 29, 2023, respondent contacted petitioner by email to discuss concerns he mentioned regarding his child when he spoke with his ex-wife and the other teacher. At this time, petitioner stated that he wanted to file a formal HIB complaint but did not do so. (Exhibits C, D, and E.)
4. On March 30, 2023, petitioner met with respondent and failed to mention any HIB concerns as it related to his child but spoke about his divorce. (Exhibits D and E.)
5. Petitioner contacted respondent on August 28, 2023, and referred to an email of March 30, 2023, but did not mention an HIB complaint. (Exhibit F.)
6. On August 29, 2023, respondent sent an email to petitioner stating that it had taken no action because there was no HIB complaint filed among other things. (Exhibit F.)

CONCLUSIONS OF LAW

Under N.J.A.C. 6A:3-1.5(g), a party can file a motion to dismiss a petition instead of filing an answer in a dispute concerning school laws. This regulation cited is analogous to a motion to dismiss a complaint for failure to state a claim upon which relief can be granted under R. 4:6-2(c). Under a R. 4 motion, the court is required to "search the complaint in depth and with liberality [determine] whether the fundament of a cause of action may be gleaned even from an obscure statement of claim." Valantas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988) quoting Di Cristofaro v. Laurel Grove Mem'l Park, 43 N.J. Super. 244, 252 (App. Div. 1957).

N.J.A.C. 6A:3-1.3(i) holds that petitions shall be filed “no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education.” The 90-day limitation period “represents a fair and reasonably necessary requirement for the proper and efficient resolution of disputes under the school laws.” Kaprow v. Board of Educ. of Berkeley Twp., 131 N.J. 572, 582 (1993). It “provides a measure of repose” and “gives school districts the security of knowing that administrative decisions regarding the operation of the school cannot be challenged after ninety days.” Ibid.

Courts strictly construe and consistently apply the 90-day limitation period. Kaprow, 131 N.J. at 588-89; Nissman v. Bd. of Educ., 272 N.J. Super 373, 380-81, (App. Div. 1994); Riely v. Bd. of Educ., 173 N.J. Super. 109, 112-14, (App. Div. 1980). This period begins to run when the petitioner “learn[s] from the Local Board the existence of that state of facts that would enable him to file a timely claim.” Kaprow, 131 N.J. at 588-89. Indeed, the “notice of a final order, ruling or other action” is “sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate.” Id. at 587. Notably, a petitioner needs not receive official and formal notification that they may have a valid claim to begin the 90 days. Id. at 588. Moreover, the 90-day period starts when a petitioner is made aware of the facts to permit them to file a timely complaint.

In searching this case with the depth and liberality with which I must, the 90-day clock began to tick for petitioner on August 29, 2023, as that was the date he was notified by respondent that he did not file a HIB complaint. Petitioner did not file his appeal until August 10, 2024, some 347 days later. Petitioner exceeded the 90-day window by 257 days. Thus, I **CONCLUDE** that petitioner filed his petition well beyond the 90-day statute of limitations under N.J.A.C. 6A:3-1.3(i), and that this case must be dismissed.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the Board’s motion to dismiss is **GRANTED**.

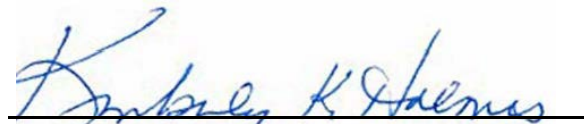
I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

December 18, 2024

DATE


KIMBERLY K. HOLMES, ALJ

Date Received at Agency:

Date Mailed to Parties:

KKH/jb

APPENDIX

EXHIBITS

For Petitioner:

None

For Respondent:

- A Email to T.C. from Mark Grilo dated March 29, 2023
- B Email to T.C. from Mark Grilo dated March 30, 2023
- C Email to T.C. from Mark Grilo dated August 28, 2023
- D Email to T.C. from Mark Grilo dated October 2, 2023
- E Email to T.C. from Sumit Bangia dated October 2, 2023
- F Email to Sumit Bangia from T.C. dated October 17, 2023