

#259-13 (OAL Decision: Not yet available online)

GEORGIANA L. MURNAGHAN, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 NEW JERSEY STATE : DECISION
 BOARD OF EXAMINERS, :
 :
 RESPONDENT. :

SYNOPSIS

Pro-se petitioner challenged the determination of the respondent that she had not satisfied the requirements for a Certificate of Eligibility to teach American Sign Language in New Jersey schools. The petitioner filed her appeal on March 15, 2013. The Board filed a motion to dismiss in lieu of an answer, alleging that petitioner’s appeal was untimely pursuant to *N.J.A.C. 6A:3-1.3*, as she was notified on September 27, 2012 that her application for certification had been denied.

The ALJ found, *inter alia*, that: a Petition of Appeal must be filed with the Commissioner no later than the 90th day from the receipt of the notice of a final agency action; by her own admission, petitioner was aware of the December 26, 2012 deadline for filing an appeal of the Board’s determination, but waited to pursue an appeal until after she became aware of a job opening for an American Sign Language instructor on January 14, 2013; and she then relied upon an unnamed secretary in the Commissioner’s office who allegedly told her that it would be “okay” to file the appeal out of time. The ALJ concluded that petitioner made a conscious decision that the time, cost, or effort associated with filing an appeal was unwarranted because there were no current job openings, and that these circumstances are not exceptional and do not provide a compelling reason to relax the 90 day rule. Further, petitioner’s reliance on the alleged conversation with an unnamed secretary does not amount to exceptional circumstances. Accordingly, the ALJ granted respondent’s motion to dismiss.

Upon review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter and dismissed the petition.

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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July 15, 2013

OAL DKT. NO. EDU 4836-13
AGENCY DKT. NO. 59-3/13

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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 comprehensive consideration, the Commissioner agrees with the Administrative Law Judge (ALJ) that the instant Petition of Appeal – filed on March 15, 2013, in response to the State Board of Examiners’ September 27, 2012 decision denying petitioner’s application for a Teacher of American Sign Language Certificate of Eligibility – was untimely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*. The Commissioner further agrees with the ALJ that petitioner has not advanced any compelling reason which would warrant the relaxation of this rule.

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: July 15, 2013

Date of Mailing: July 16, 2013

* 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)*.