

#338-12 (OAL Decision: Not yet available online)

CARIDAD RODRIGUEZ, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY OF : DECISION
JERSEY CITY, HUDSON COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner – a world language teacher employed in respondent’s school district since 2004 – appealed the determination of the respondent Board to withhold her 2010-2011 salary increment based on performance, alleging that the Board’s actions were arbitrary, capricious and unreasonable. The Board contended that the increment withholding was justified based upon deficiencies in petitioner’s teaching performance as documented in her evaluations from the previous school year.

The ALJ found, *inter alia*, that: petitioner was evaluated three times during the 2009-2010 school year – two formative reviews and a summative review; these evaluations concluded that petitioner’s performance was unsatisfactory and in need of improvement; petitioner’s second and third evaluations reflected no improvement in targeted performance areas; petitioner’s evaluations reflect genuine professional observations of her performance rather than retaliatory action, as suggested by petitioner; and, pursuant to *N.J.S.A. 18A:29-14*, petitioner received a letter dated August 24, 2010 which clearly advised that her increment was being withheld due to performance concerns. The ALJ concluded that petitioner did not meet her burden of demonstrating that the Board’s actions were arbitrary, capricious or unreasonable. Accordingly, the ALJ ordered the petition dismissed.

Upon independent review and consideration, the Commissioner concurred with the ALJ findings and conclusions in this matter; accordingly the Initial Decision of the OAL was adopted as the final decision 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.

August 17, 2012

OAL DKT. NO. EDU 5470-12
AGENCY DKT. NO. 551-9/10

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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 such review, the Commissioner agrees with the Administrative Law Judge – for the reasons comprehensively detailed in her decision – that petitioner has failed to sustain her burden of establishing that the District’s withholding of her increment for the 2010-2011 school year was arbitrary, capricious or unreasonable.

Accordingly, the recommended decision of the OAL is adopted and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 17, 2012

Date of Mailing: August 17, 2012

* 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).