

#2-16 (OAL Decision: Not yet available online)

KATHLEEN BOGER, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE LENAPE : DECISION

VALLEY REGIONAL HIGH SCHOOL,

SUSSEX COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioner – a tenured Special Education teacher in respondent’s employ – appealed the determination of the respondent Board to withhold her 2014-2015 salary increment, alleging that the Board failed to set forth reasons for withholding the increment in their notice to petitioner. The Board contended that petitioner’s increment was withheld for good cause, and that she was properly served notice via a letter dated June 20, 2014, which referenced an enclosed corrective action plan that set forth the reasons for petitioner’s increment withholding. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A.* 18A:29-14, a board of education may withhold, for inefficiency or other good cause, the scheduled increments of any staff member in any year; the board must provide written notice of such action within 10 days, together with the reasons for the withholding; here, the Board complied with this notice requirement when it submitted the June 20, 2014 letter with an enclosed corrective action plan for the petitioner; the corrective action plan sufficiently set forth the reasons that petitioner’s increment was withheld; and there are no genuine issues of material fact herein, and the matter is ripe for summary decision. Accordingly, the ALJ granted summary decision to the respondent Board, and dismissed the petition.

Upon comprehensive review and consideration, the Commissioner concurred with the findings and conclusions of the ALJ. Accordingly, for the reasons expressed therein, the Initial Decision was adopted as the final decision in this matter.

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.

January 4, 2016

OAL DKT. NO. EDU 12795-14  
AGENCY DKT. NO. 259-9/14

KATHLEEN BOGER, :  
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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 a comprehensive review of the record in this matter, the Commissioner concurs with the Administrative Law Judge that the Board's June 20, 2014 letter and the enclosed corrective action plan satisfied the requirements outlined in *N.J.S.A.* 18A:29-14, and adequately provided the petitioner with the reason for her increment withholding for the 2014-2015 school year. Accordingly, for the reasons expressed therein, the Initial Decision is adopted as the final decision in this matter.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: January 4, 2016

Date of Mailing: January 5, 2016

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<sup>1</sup> 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).