

ERIKA HOGAN, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF : DECISION
 POINT PLEASANT BOROUGH, :
 OCEAN COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner, a tenured English and foreign languages teacher formerly employed by the Board, contends that the respondent Board's decision to withhold her salary increment for the 2002-2003 school year was arbitrary, capricious and unreasonable; additionally, she challenges respondent's failure to pay her full salary and benefits for the 2002-2003 school year without loss of sick leave, pursuant to *N.J.S.A. 18A:30-2.1*, for psychiatric disability she contends arose out of and in the course of her employment. The Board contends that its action to withhold the increment was appropriate pursuant to *N.J.S.A. 18A:29-14*, as it had documented deficiencies in petitioner's performance over a number of years. Further, respondent asserts petitioner is not entitled to the benefit of *N.J.S.A. 18A:30-2.1* because her psychiatric disability arose from merited criticism and would not be compensable under the Workers' Compensation statutes.

The ALJ found, *inter alia*, that: petitioner's subjective perception of the stresses of her work environment was the causal trigger for her psychiatric injury; petitioner did not establish the existence of a hostile work environment, but credible evidence established that she was under pressure from actual stresses in her work environment resulting from criticisms and demands for improvement in the classroom, which resulted in the withholding of her increment; petitioner's psychiatric disability is not compensable under the Worker's Compensation Act and she is not entitled to full salary and benefits without loss of sick leave for the entire 2002-2003 school year. The ALJ affirmed the determinations of the Board, and dismissed the petition.

Upon a thorough and independent review of the record, the Commissioner concurs with the determinations of the ALJ, and adopts the Initial Decision as the final decision in this matter.

<p>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.</p>

September 8, 2006

OAL DKT. NO. EDU 6083-02 and EDU 736-03
AGENCY DKT. NO. 238-7/02 and 25-1/03
(CONSOLIDATED)

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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 filed no exceptions to the Initial Decision.

Upon such review, the Commissioner agrees with the Administrative Law Judge (ALJ), for the reasons comprehensively detailed in his decision, that petitioner has failed to sustain her burden of establishing that the Board's withholding of her increment for the 2002-03 school year was arbitrary, capricious or unreasonable. The Commissioner further concurs with the ALJ, again for the reasons well stated in his decision, that petitioner's psychiatric disability is not compensable under the Workers' Compensation Act and, therefore, she is not entitled to full salary and benefits without loss of sick leave for the 2002-03 school year under *N.J.S.A. 18A:30-2.1*.

Accordingly, the recommended decision of the OAL is adopted and the instant consolidated Petitions of Appeal are hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 8, 2006

Date of Mailing: September 8, 2006

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*