

ADELE STAPLETON, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
CITY OF JERSEY CITY,  
HUDSON COUNTY, :  
RESPONDENT. :

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#### SYNOPSIS

Petitioner – a tenured special education teacher, employed by respondent since 1975 – appealed the district’s withholding of her salary increment for the 2010-2011 school year. Petitioner contended that the Board’s withholding of her increment was arbitrary, capricious and unreasonable. The Board contends that it acted appropriately pursuant to *N.J.S.A. 18A:29-14*, which authorizes local boards to withhold salary increments for inefficiency or other good cause.

The ALJ found, *inter alia*, that: an individual contesting a salary increment withholding has the burden of proof to demonstrate that the Board’s decision was arbitrary, capricious and unreasonable; for the 2009-2010 school year, petitioner was re-assigned as an inclusion teacher in kindergarten; petitioner was observed and evaluated by her principal and the special education supervisor, both of whom had extensive training and experience in special education; petitioner received “unsatisfactory” ratings in the categories of Students and Learning, Instruction, and Classroom Environment, and a “needs improvement” rating in Planning and Preparation; both administrators were in agreement that petitioner failed to perform up to their level of expectation; and petitioner failed to meet her burden to prove that respondent’s action in withholding her increment was arbitrary, capricious, unlawful, or induced by improper motive. Accordingly, the ALJ dismissed petitioner’s appeal with prejudice.

Upon independent review and consideration, the Commissioner adopted the Initial Decision as the final decision in this matter for the reasons expressed therein. The petition was dismissed.

<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>
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OAL DKT. NO. EDU 10898-10  
AGENCY DKT. NO. 558-9/10

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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 decision to withhold the petitioner's increment for the 2010-2011 school year was not arbitrary, capricious or unreasonable. Accordingly the Initial Decision is adopted as the final decision in this matter.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 24, 2011

Date of Mailing: June 24, 2011

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\* Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.