

New Jersey Commissioner of Education
Final Decision

Charlotte Jones and Lisa May,

Petitioners,

v.

Board of Education of the Township of Winslow,
Camden County,

Respondent.

Synopsis

Petitioners – tenured teachers employed by the respondent Board who received evaluation ratings below the “effective” range and were subsequently placed on Corrective Action Plans (CAP) for the 2019-2020 school year – appealed a determination by the respondent Board to withhold their salary increments for the 2020-2021 school year based upon “partially effective” summative ratings. Petitioners contend that the Board’s actions contravened the Governor’s COVID-19 Executive Order No. 103 and related guidelines issued by the New Jersey Department of Education (NJDOE), which mandated that as tenured teachers on a CAP, petitioners were entitled to receive Not Evaluated (NE) ratings for the 2019-2020 school year because of school closures due to the COVID-19 public health emergency. The Board maintained that its decision was made in accordance with Board policy and its managerial prerogative to award salary increments based upon effective service. The parties filed opposing motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case, and the matter is ripe for summary decision; it is well settled that a salary increment is a reward for meritorious service, not an entitlement; any board of education may withhold, for inefficiency or other good cause, the employment increment of any staff member in any year; a local school board's decision to withhold a salary increment is a matter of management prerogative and is entitled to a presumption of correctness; however, in this case, the Board improperly disregarded the Governor’s Executive Order and related Guidelines when it issued “partially effective” summative evaluations to petitioners; the Board therefore acted arbitrarily in using these improper evaluations as the basis upon which to withhold petitioners’ salary increments. Accordingly, the ALJ granted summary decision in favor of the petitioners and directed that the Board restore petitioners’ salary increments for the 2020-2021 school year.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions in this matter and adopted the Initial Decision as the final decision for the reasons thoroughly expressed therein. The Board was directed to restore petitioners’ increments for the 2020-21 school year.

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.

201-21

OAL Dkt. No. EDU 08392-20

Agency Dkt. No. 182-8/20

New Jersey Commissioner of Education

Decision

Charlotte Jones and Lisa May,

Petitioners,

v.

Board of Education of the Township of Winslow,
Camden County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹

In this matter, petitioning tenured teachers who are employed by the Winslow Township Board of Education (Board) are challenging the Board's decision to withhold their increments for the 2020-2021 school year. Due to evaluation ratings below the "effective" range, petitioners were both placed on Corrective Action Plans (CAPs) for the 2019-20 school year. During that school year, petitioners each had two evaluations before the school closure caused by the COVID-19 pandemic. Jones received an "effective" rating on one evaluation and "partially effective" rating on the other, while May received two "partially effective" ratings on her evaluations.

After Governor Murphy declared a public health emergency in March 2020, the Commissioner of Education issued a "Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order 103 (2020)," effective April 3, 2020, modifying certain requirements regarding

¹ The Board's exceptions were not timely filed in accordance with *N.J.A.C.* 1:1-18.4 and were therefore not considered by the Commissioner.

annual summative ratings for educators due to the extended school closures and cancellation of State assessments. In pertinent part, the rule modification found:

Educators working under a CAP for the 2019-2020 school year will receive a NE [not evaluated] code. These individuals should continue to receive support for the remainder of the 2019-2020 school year and the CAP shall remain in effect at the start of the 2020-2021 school year in accordance with *N.J.A.C. 6A:10-2.5(1)*.

[Petitioners' Exhibit A.]

The Department also issued guidance on its website entitled "Educator Evaluation During Extended School Closure as a Result of COVID-19," which indicated the following regarding certificated staff who were on a CAP:

a. Chief School Administrators have the discretion to produce a summative rating for an educator currently on a CAP who had been progressing towards an Effective or Highly Effective rating (as shown by observation scores issued up to this point in the year) and who will be moved back into good standing by the issuance of a summative rating. Please apply the guidance provided for nontenured teachers to develop a summative rating for educators described here.

b. All other educators on a CAP will receive a Not Evaluated (NE) rating for the 2019-2020 school year.

c. Coaching should continue for the remainder of the 2019-2020 school year.

d. The current CAP will be in place for the start of the 2020-2021 school year.

e. At the start of the SY 2020-2021, the educator and supervisor should collaboratively review the CAP and amend it to reflect the educator's assignment and context.

[Petitioners' Exhibit B (emphasis added).]

Despite this guidance, both petitioners received summative ratings of "partially effective." The Assistant Principal's notes on May 6, 2020 regarding May state:

Summative Completed. Ms. May was advised of the following in addition to it being recorded as part of her summative:

“As a result of receiving an overall score of Partially Effective (2.47), as well as the continued findings listed in the above summative, Ms. May is being recommended for a pay increment withholding for the 2020-2021 school year. Ms. May will continue to be on a Corrective Action Plan for the 2020-2021 school year.”

[Petitioners’ Exhibit D.]

Similarly, the Assistant Principal’s notes on May 6, 2020 regarding Jones state:

Summative Completed. Ms. Jones was advised of the following in addition to it being recorded as part of her summative:

“As a result of receiving an overall score of Partially Effective (2.54), as well as the continued findings listed in the above summative, Ms. Jones is being recommended for a pay increment withholding for the 2020-2021 school year. Ms. Jones will continue to be on a Corrective Action Plan for the 2020-2021 school year.”

[Petitioners’ Exhibit D.]

Thereafter, counsel for the Winslow Township Education Association (WTEA) wrote a letter to the Board in advance of a Board meeting regarding petitioners’ increments. Counsel argued that there is no basis by which to withhold their increments because, based on the Department’s guidance, they both should have received “NE” ratings, and accordingly they cannot be subject to performance-based increment withholdings. In response, the Board attorney acknowledged the guidance, but indicated that the guidance did not prohibit increment withholdings for inefficiency or other good cause, in accordance with *N.J.S.A. 18A:29-14*. At its meeting on June 24, 2020, the Board approved the Superintendent’s recommendation to withhold petitioners’ increments for the 2020-21 school year.

The Administrative Law Judge (ALJ) found that the Board improperly disregarded the Executive Order and Guidelines when it issued “partially effective” summative evaluations to petitioners, and therefore acted arbitrarily when it used those improper evaluations as the basis to withhold their increments. Specifically, the ALJ explained:

Respondent framed the issue as whether the Guidance regarding the evaluation of tenured staff on a CAP precluded the Board from withholding Jones' and May's salary increment as a matter of law. I disagree with respondent's framing of the issue. The issue is much narrower. As articulated in petitioners' cross-motion for summary decision, the issue is whether the basis for Jones' and May's salary withholding was their summative ratings of "Partially Effective" in violation of the Executive Order and Guidelines. As there is no dispute that the salary withholding was based on the summative ratings of "Partially Effective," I **CONCLUDE** that the Board's actions violated the Executive Order and Guidelines and thus, were improper. To determine otherwise would be to condone the Board's decision to disregard the COVID-19 Executive Order and Guidelines.

[Initial Decision at 8.]

Accordingly, the ALJ ordered that petitioners' increments be restored for the 2020-21 school year.²

Upon a comprehensive review of the record, the Commissioner agrees with the ALJ that the Board acted unreasonably when it withheld petitioners' increments based on the fact that they received "partially effective" summative ratings; both petitioners should have received "NE" ratings in accordance with Department guidance and the rule modification. Pursuant to *N.J.S.A. 18A:29-14*, a board may withhold "for inefficiency or other good cause, the employment increment, or the adjustment increment, or both, of any member in any year." Teachers are not entitled to salary increments; instead, they are a reward for meritorious service. *North Plainfield Education Association v. Board of Education of the Borough of North Plainfield*, 96 N.J. 587, 593 (1984). The decision to withhold an increment for teachers who have not performed well is a management prerogative. *Ibid.* As such, when challenging an increment withholding, a teacher has the burden to demonstrate that the board acted arbitrarily, without rational basis or induced by improper motives. *Kopera v. Board of Education of the Town of West Orange*, 60 N.J. Super. 288, 294 (App. Div. 1960).

² The ALJ also found that the Board treated petitioners as nontenured teachers when it chose to apply the summative rating of "Partially Effective," rather than the correct rating of "NE" as instructed by the guidance. The Commissioner finds that it is not clear from the record that the Board treated petitioners as nontenured teachers; however, the reason why the Board chose to disregard the guidance and issue summative ratings is not pertinent to this decision.

This matter involves a unique set of circumstances under which petitioners have met their burden of demonstrating that the Board acted arbitrarily and unreasonably. It is clear from the record that the Board completed petitioners' summative ratings for the 2019-20 school year. Copies of the summative reports are in the record, accompanied by the Assistant Principal's note that "[a]s a result of receiving an overall score of Partially Effective . . . as well as the continued findings listed in the above summative, [petitioners are] being recommended for a pay increment withholding for the 2020-2021 school year." (Petitioners' Exhibit D). This language leaves no doubt that the sole basis of the Board's withholding of their increments was their summative ratings. Furthermore, the Board attorney's June 10, 2020 letter – in response to the WTEA counsel's letter that challenged the Board's authority to make performance-based increment withholdings – also stated that petitioners' evaluations in the 2019-20 school year "resulted in a score of 'Partially Effective.'" (Petitioners' Exhibit H).


The Department's rule modification changed the procedures regarding educator evaluations due to the COVID-19 public health emergency and indicated that educators working under a CAP in the 2019-20 school year "will receive a 'NE' code." The Department also issued guidance which reiterated that those teachers will receive a "NE" rating. The fact that the Board disregarded the instructions that it received from the Department regarding summative ratings, issued "partially effective" summative ratings to petitioners despite specific guidance to the contrary, and then used those ratings as the basis for their increment withholdings is troubling, unreasonable, and arbitrary. While the Board has argued that the underlying performance of petitioners – and not their summative ratings – was the true reason for the increment withholding, the record is clear that the reasoning behind the increment withholdings was the "partially effective" summative ratings, which rightfully should have been rated "NE."

Finally, the Commissioner need not address the broader issue of whether performance-based increment withholdings were prohibited for the 2020-21 school year due to the

rule modification and guidelines, because the Commissioner agrees with the ALJ that the issue here is much narrower and hinges on whether the basis for petitioners' salary withholdings was their "partially effective" summative ratings in violation of the rule modification and guidelines, which has been discussed in detail above.

Accordingly, for the reasons expressed therein, the Initial Decision is adopted as the final decision in this matter. The Board is directed to restore petitioners' increments for the 2020-21 school year.

IT IS SO ORDERED.³


ANGELINA ALLEN McMILLAN, J.D.S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 28, 2021
Date of Mailing: September 28, 2021

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 08392-20

AGENCY DKT. NO. 182-8/20

CHARLOTTE JONES AND

LISA MAY,

Petitioners,

v.

WINSLOW TOWNSHIP BOARD

OF EDUCATION, CAMDEN COUNTY

Respondent.

Steven R. Cohen, Esq. and Daniel R. Dowdy, Esq., for petitioners (Selikoff & Cohen, attorneys)

Michael A. Pattanite, Jr., Esq., for respondent (Lenox, Socey, Formidoni, Giordano, Lang, Carrigg & Casey, LLC, attorneys)

Record Closed: June 21, 2021

Decided: July 2, 2021

BEFORE KATHLEEN M. CALEMMO, ALJ:

STATEMENT OF THE CASE

Petitioners Charlotte Jones (Jones) and Lisa May (May) appealed the determination by the respondent Winslow Township Board of Education (Board) to

withhold their salary increments for the 2020-2021 school year. Petitioners submit that the Board's actions contravened the COVID-19 Executive Order No. 103 by Governor Murphy and Guidelines issued by the New Jersey Department of Education (NJDOE). As tenured teachers on a Corrective Action Plan (CAP), petitioners were entitled to receive Not Evaluated (NE) ratings for the 2019-2020 school year. Instead, respondent assigned "Partially Effective" summative ratings and used the ratings as the justification for withholding their salary increments. Respondent maintained that its decision was made in accordance with its Policy 3152 and the Board's managerial prerogative to only reward effective service. (R-Exhibit F.) Respondent further submitted that the Executive Order and NJDOE Guidance does not alter the Board's ability to award or withhold salary increments based on job performance.

PROCEDURAL HISTORY

This matter arose with the filing of a petition of appeal with the Commissioner of Education ("the Commissioner") on August 26, 2020. The Board filed its answer on September 4, 2020. The matter was transmitted to the Office of Administrative Law ("OAL") as a contested case on October 20, 2020. The Board filed a Motion for Summary Decision on April 19, 2021. Petitioners opposed the Motion via brief and certification and filed a Cross-Motion for Summary Decision on May 10, 2021. The Board replied to the opposition and opposed the cross-motion on June 2, 2021. Petitioners replied to the Board's opposition on June 8, 2021. At respondent's request, I held oral argument, via telephone conference, on June 21, 2021 and closed the record.

STATEMENT OF FACTS

The salient facts are uncontroverted, and I **FIND**:

Jones and May are tenured teaching staff members employed by respondent as teachers with twenty and nineteen years of employment respectively with Winslow Township Public Schools (Winslow). For the 2019-2020 school year, Jones and May were on Corrective Action Plans (CAPs). (R-Exhibit B.) The CAPs were imposed because Jones' and May's scores on the Teacher Composite Score Reports were not in

the “Effective” range during the evaluation cycle for the 2018-2019 school year. (R-Exhibit C.) During the 2019-2020 school year, prior to the school closures caused by the COVID-19 pandemic, Jones and May had two classroom observations. Jones’ first observation was on October 23, 2019; she received an “Effective” overall rating. Jones’ second observation was on January 16, 2020; she received a “Partially Effective” overall rating. (R-Exhibit D.) May’s first observation was on October 23, 2019; she received a “Partially Effective” overall rating. May’s second observation was on January 24, 2020; she received a “Partially Effective” overall rating. Id.

On March 9, 2020, in response to the COVID-19 pandemic, Governor Murphy issued Executive Order 103 and on April 17, 2020, he issued Executive Order 117. In response thereto, the Commissioner of Education issued a Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order 103, effective April 3, 2020, which provided in pertinent part:

Current Department regulations specify rules that school districts must follow to formulate and issue an annual summative rating for educators. The rules identify who must be evaluated, specific components that must be included in evaluations (observations and measures of student growth), and dates by which educators must be notified of the components and the percentage weight associated with each component. The disruption caused by the extended public health-related school closures, and the subsequent cancellation of State assessments, make it impossible to develop some components and render others less reliable as measures of educator effectiveness. Therefore, it is necessary to redefine the components and associated weights, and to notify educators of the changes. In these unprecedented times, school districts also need to direct resources to locally established priorities.

...

Educators working under a CAP for the 2019-2020 school year will receive a NE [Not Evaluated] code. These individuals should continue to receive support for the remainder of the 2019-2020 school year and the CAP shall remain in effect at the start of the 2020-2021 school year in accordance with N.J.A.C. 6A:10-2.5(l).

[P-Exhibit A]

In March 2020, the NJDOE issued Guidance on its website entitled Educator Evaluation During Extended School Closure as a Result of COVID-19¹. The pertinent section in the Guidance, “Teachers, Principals, APs, VPs, and other Certificated Staff Currently on a Corrective Action Plan (CAP)” provided as follows:

1. Chief School Administrators have the discretion to produce a summative rating for an educator currently on a CAP [corrective action plan] who had been progressing towards an Effective or Highly Effective rating (as shown by observation scores issued up to this point in the year) and who will be moved back into good standing by the issuance of a summative rating. Please apply the guidance provided for nontenured teachers to develop a summative rating for educators described here.
2. All other educators on a CAP will receive a Not Evaluated (NE) rating for the 2019-2020 school year.
3. Coaching should continue for the remainder of the 2019-2020 school year.
4. At the start of the SY 2020-2021, the educator and supervisor should collaboratively review the CAP and amend it to reflect the educator's assignment and context.

The NJDOE also released a PowerPoint presentation entitled COVID-19 School Closures: Amended Guidance for Evaluating Educators (Amended Guidance) which reiterated the above Guidance with respect to certificated staff on a CAP. (P – Exhibit K.)

On May 6, 2020, Winslow's Assistant Principal, Shane Ruben (Ruben), noted that May's annual summative score was completed. (P-Exhibit D.) Ruben recorded as part of May's summative, the following:

As a result of receiving an overall score of Partially Effective (2.47), as well as the continued findings listed in the above summative, Ms. May is being recommended for a pay

¹ <https://www.nj.gov/education/covid19/teacherresources/edevaluation.shtml>.

increment withholding for the 2020-2021 school year. Ms. May will continue to be on a Corrective Action Plan for the 2021-2021 school year. Id.

Similarly, for Jones, Ruben recorded the following statement as part of Jones' summative:

As a result of receiving an overall score of Partially Effective (2.54), as well as the continued findings listed in the above summative, Ms. Jones is being recommended for a pay increment withholding for the 2020-2021 school year. Ms. Jones will continue to be on a Corrective Action Plan for the 2021-2021 school year. Id.

On May 8, 2020, Jones and May received RICE² Notices from Winslow informing them that the superintendent would be making a recommendation regarding the status of their employment for the 2020-2021 school year at the May 13, 2020 Board meeting. (P-Exhibit E.) Due to postponements, this meeting did not occur until June 24, 2020. Subsequent RICE Notices were given each time the meeting was postponed.

In response to the May 8, 2020 notice, counsel for the New Jersey Education Association (NJEA) on behalf of Jones and May, wrote a letter to the Board to reiterate the NJDOE Guidance that required Jones and May receive a rating of NE. As expressed, it would be improper for the Board to entertain discussion about withholding salary increments based on unsatisfactory performance. (P-Exhibit F.) On June 10, 2020, counsel for the Board responded that it was proceeding in accordance with N.J.S.A. 18A:29-14 that permitted a Board to withhold a salary increment for "inefficiency or other good cause." (P-Exhibit H.)

On June 25, 2020, the Superintendent for Winslow issued letters to Jones and May advising them that the Board approved the Superintendent's recommendation to withhold

² In Rice v. Union County Regional High School Board of Education, 155 N.J. Super. 64, 73 (App. Div. 1977), the Appellate Division held that a public body was obliged to give affected employees adequate notice of any discussion intended for closed session, so that they would have the opportunity to prepare and present an appropriate request for a public discussion in writing. These notices are commonly referred to as Rice Notices.

their increments for the 2020-2021 school year. On behalf of the Board, the Superintendent expressed their hope and expectation that Jones' and May's performances would improve. (P-Exhibit-J.)

Because the District evaluated Jones and May prior to the COVID-19 closures, it used the evaluation scores that rated them as "Partially Deficient" as the basis to withhold their salary increments. The Board maintained that it withheld petitioners' salary increment due to their subpar performance.

LEGAL ANALYSIS

A motion for summary decision shall be granted "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." N.J.A.C. 1:1-12.5(b).

A determination whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. The "judge's function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." Brill, 142 N.J. at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence "is so one-sided that one party must prevail as a matter of law," the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252. **I CONCLUDE** that this matter is ripe for summary decision.

It is well settled that a salary increment is a reward for meritorious service, not an entitlement. N. Plainfield Educ. Ass'n v. Bd. of Educ., 96 N.J. 587, 593 (1984). Any board of education may withhold, for inefficiency or other good cause, the employment increment, or the adjustment increment, or both, of any member in any year. N.J.S.A. 18A:29-14. A local school board's decision to withhold a salary increment is a matter of management prerogative and is entitled to a presumption of correctness. Fogerty v.

State-Operated Sch. Dist. of the City of Jersey City, 97N.J.A.R.2d (EDU) 439 Kaska v. Bd. of Educ. of the City of Trenton, 95 N.J.A.R.2d (EDU) 55.

When challenging an increment withholding, the teacher has the burden of proof to show that the board of education acted arbitrarily without rational basis or was induced by improper motives. Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294. (App. Div. 1960.) In the absence of clear and convincing proof that a board of education acted unreasonably or in a cursory manner in withholding an increment, the Commissioner will not substitute his judgment for the board of education's judgment. Id. at 296. A board of education must simply be able to demonstrate that the recommendation to withhold is factually supported by observation reports or other reliable evidence. Id. at 296-97.

Thus, by statute, among other things, a board of education can withhold an increment for inefficiency or other good cause.

Notwithstanding the above, the exigencies of the COVID-19 pandemic intervened and caused Governor Murphy to issue Executive Order No. 103 (2020) effective April 3, 2020, to reduce the "regulatory burden related to the evaluation of educators." (P-Exhibit A.) One of these measures provided that tenured teachers on a CAP receive a NE rating for the 2019-2020 school year. The NJDOE's guidance further stated that only tenured teachers who had been progressing towards an "Effective" or "Highly Effective" rating, as shown by observation scores could be moved back into good standing using summative ratings. All other tenured educators on a CAP would receive a NE rating. (P-Exhibit B.) Jones and May were entitled to a NE rating for the 2019-2020 school year.

I **CONCLUDE** that respondent's argument herein must fail because when it applied the summative rating of "Partially Effective" as opposed to the correct rating of NE, it treated Jones and May as if they were nontenured educators. Looking at the NJDOE's Guidance regarding nontenured teachers, it was the same methodology used by the Superintendent and Board when they determined that Jones and May deserved "Partially Effective" ratings. The Guidance for nontenured teachers provided as follows:

1. There must be a minimum of two observations.
2. Observations must have been conducted before the district closed.
3. They must receive a summary conference.
4. No measures of student learning will be included in the summative rating.

[P-Exhibit B]

The District and the Board disregarded the Guidance and the Executive Order that required Jones and May to receive a NE rating and instead treated Jones and May as nontenured teachers. I **CONCLUDE** that the Board acted in an arbitrary way when it made the determination not to follow the Guidance and Executive Order No.103 and treat Jones and May as nontenured teachers.

The Board's reasoning that the Guidance did not address the Board's discretionary authority to withhold salary increments was not persuasive justification for its actions, herein. Mainly, because the Board offered no other basis for its action. It repeatedly argued that salary increments are not used to reward subpar performance and maintained that petitioners' performances were subpar. However, the Board could not contradict that the basis for the subpar performances were the improper summative ratings. Under the Guidance, summative ratings were improper when applied to tenured teachers on a CAP.

Respondent framed the issue as whether the Guidance regarding the evaluation of tenured staff on a CAP precluded the Board from withholding Jones' and May's salary increment as a matter of law. I disagree with respondent's framing of the issue. The issue is much narrower. As articulated in petitioners' cross-motion for summary decision, the issue is whether the basis for Jones' and May's salary withholding was their summative ratings of "Partially Effective" in violation of the Executive Order and Guidelines. As there is no dispute that the salary withholding was based on the summative ratings of "Partially Effective," I **CONCLUDE** that the Board's actions violated the Executive Order and Guidelines and thus, were improper. To determine otherwise would be to condone the Board's decision to disregard the COVID-19 Executive Order and Guidelines.

Therefore, I **CONCLUDE** that the Board's action in disregarding the Executive Order and Guidelines was improper and its decision to withhold petitioners' salary increments was arbitrary and without basis.

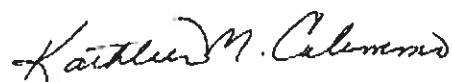
ORDER

Based on the foregoing, it is **ORDERED** that respondent Winslow Township Board of Education's Motion for Summary Decision is **DENIED**. It is further **ORDERED** that petitioners Charlotte Jones and Lisa May's Cross-Motion for Summary Decision is **GRANTED**. Accordingly, petitioners' increments should be restored for the 2020-2021 school year.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



July 2, 2021

DATE

KATHLEEN M. CALEMNO, ALJ

Date Received at Agency:

July 2, 2021

Date Mailed to Parties:

July 2, 2021

KMC/tat