

VERA JACKSON, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 STATE-OPERATED SCHOOL : DECISION
 DISTRICT OF THE CITY OF :
 JERSEY CITY, HUDSON COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioning teacher alleged the District's decision to withhold her increment for the 1998-99 school year was arbitrary, capricious and unreasonable.

In light of the testimony and evidence presented, the ALJ concluded that the Board's discretionary exercise of its statutory authority to withhold petitioner's increment should not be overturned. The ALJ determined that petitioner failed to prove that it was unreasonable for the administrators who observed and evaluated her teaching performance during the 1997-98 school year to conclude that her performance was less than satisfactory. Thus, the ALJ concluded that petitioner did not sustain her burden of establishing that the Board's decision to withhold her increment was arbitrary, capricious and unreasonable. Petition was dismissed.

The Commissioner adopted findings and determination in Initial Decision as his own.

October 13, 2000

OAL DKT. NO. EDU 3804-99
AGENCY DKT. NO. 399-9/98

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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 his independent and careful review of the record, which included transcripts of the hearing conducted at the OAL¹, the Commissioner determines to affirm the Administrative Law Judge's (ALJ) recommended decision as he concurs with the ALJ that the District's action of withholding petitioner's 1998-99 increment was a valid exercise of that body's discretionary authority. In this regard, it must be reemphasized that the decision of the District is entitled to a presumption of correctness and will not be overturned unless petitioner makes an affirmative showing, by a preponderance of the credible evidence, that such action was arbitrary, capricious or unreasonable. Here, the Commissioner concludes that the record amply establishes that the District's action in withholding petitioner's increment was based on validly perceived deficiencies in her performance during the 1997-98 school year and, as such, petitioner has failed to sustain her burden.

¹ Hearing dates were December 9, 1999 and February 3, 2000.

Accordingly, the Initial Decision of the OAL is affirmed for the reasons well-stated therein and the within Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: October 13, 2000

Date of Mailing: October 13, 2000

² This decision, as the Commissioner's final determination, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.