

#145-09 (OAL Decision: Not yet available online)

GEORGE CHILMONIK, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWN OF PHILLIPSBURG, :
 WARREN COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner – a math teacher in the respondent Board’s district – challenged the Board’s decision to withhold his increment for the 2008-2009 school year following an incident of alleged unbecoming behavior toward a student.

The ALJ found that: the within matter concerns the withholding of a salary increment for disciplinary purposes as opposed to substandard work; pursuant to a collective bargaining agreement, petitioner is barred from appealing the Board’s decision before the Commissioner. Accordingly, the ALJ dismissed the petition for lack of jurisdiction.

Upon independent review of the record, the Commissioner concurred with the ALJ and adopted the Initial Decision 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.

May 6, 2009

OAL DKT. NO. EDU 13765-08
AGENCY DKT. NO. 297-10/08

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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 did not file exceptions to the Initial Decision.

Upon review, the Commissioner concurs with the Administrative Law Judge that the Board's motion to dismiss is appropriately granted as the Commissioner lacks subject matter jurisdiction to adjudicate the within controversy.

Accordingly, the recommended decision of the OAL is adopted for the reasons stated therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2009

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* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.