

14-99

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

SYNOPSIS

Petitioning special education teacher alleged the Board improperly withheld her salary increment for the 1996-97 school year.

In light of the testimony of two qualified educational experts, the ALJ determined that petitioner failed to show that the District's decision to withhold her salary increment was arbitrary, capricious or unreasonable. District proved that petitioner's performance was "less than satisfactory." Thus, the ALJ concluded that the District's discretionary exercise of its statutory authority to withhold petitioner's salary increment should not be overturned. (*Kopera*) ALJ ordered the relief requested by petitioner be denied.

Commissioner adopted findings and determination in initial decision as his own. Petition was dismissed.

JANUARY 25, 1999

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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.

Upon careful and independent review, and accepting the factual findings and credibility determinations of the Administrative Law Judge (ALJ), the Commissioner determines to affirm the initial decision. As noted, it is petitioner's burden to prove, by a preponderance of credible evidence, that the District's decision to withhold her increment was unreasonable, based on the facts. *Kopera, supra*. The Commissioner finds that petitioner has failed to meet her burden.

Accordingly, the initial decision of the ALJ is affirmed for the reasons expressed therein, and the Petition of Appeal is hereby dismissed.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

JANUARY 25, 1999

* This decision, as the Commissioner's final determination in the instant matter, 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.