

305-00

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

SYNOPSIS

Petitioning teaching staff member alleged the District improperly withheld his salary increment for the 1998-99 school year based on evaluations of his teaching performance wherein he received unsatisfactory ratings.

The ALJ determined that the District had demonstrated that petitioner, among other things, was deficient in assessing needs evaluating the progress of students, did not employ effective organization and planning and was in need of improvement in addressing affective domain. The ALJ determined that the withholding of petitioner's increment was appropriate and so concluded in her recommended decision.

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

September 15, 2000

OAL DKT. NO. EDU 3818-99
AGENCY DKT. NO. 399-8/98

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and the District's reply thereto are duly noted as submitted in accordance with *N.J.A.C.* 1:1-18.4, and were considered by the Commissioner in reaching his decision.

Upon careful and independent review of the record, which included a transcript of the hearing conducted at the OAL on March 6, 2000, the Commissioner determines to affirm the Initial Decision. As noted therein, it is petitioner's burden to prove, by a preponderance of credible evidence, that the District's decision to withhold his increment was arbitrary, capricious or unreasonable. *Kopera, supra*. Notwithstanding petitioner's arguments to the contrary, the Commissioner finds no basis, either in the transcript or in the record as a whole, to challenge the credibility determinations of the Administrative Law Judge, who had the benefit of observing the witnesses firsthand, or to disturb her findings and conclusions. As such, the Commissioner concurs that petitioner has failed to meet his burden.

Accordingly, the within Petition of Appeal is dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: September 15, 2000

Date of Mailing: September 15, 2000

* 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.