

#335-13 (OAL Decision: Not yet available online)

VALERIE CRAIG-NDIAYE, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY : DECISION
OF JERSEY CITY, HUDSON COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner – a tenured teacher employed in respondent’s school district since 2003 – appealed the determination of the respondent Board to withhold her 2010-2011 salary increment, alleging that the respondent violated *N.J.S.A.* 18A:20-14 in denying her the increment to which she was entitled pursuant to the negotiated salary guide between the Jersey City Education Association and the Board. Respondent contended that petitioner’s 2010-2011 increment was withheld for good cause pursuant to *N.J.S.A.* 18A:29-14.

The ALJ found, *inter alia*, that: the petitioner bears the burden of proving that the withholding of her increment was arbitrary, capricious or unreasonable; petitioner’s increment was withheld based on performance evaluations during the 2009-2010 school year; credible testimony at hearing supported the respondent’s determination that petitioner’s classroom instruction during the year in question was lacking in many respects, including unacceptable lesson plans, repeating lessons already taught, and leaving the class alone on multiple occasions. The ALJ concluded that petitioner had not met her burden of proof, and that the Board’s action in withholding her 2010-2011 increment was reasonable given petitioner’s classroom performance during the 2009-2010 school year. Accordingly, the petition was dismissed.

Upon independent review and consideration, the Assistant Commissioner, to whom this matter was delegated pursuant to *N.J.S.A.* 18A:4-34, concurred with the ALJ that the Board’s decision to withhold petitioner’s increment was not arbitrary, capricious and unreasonable; accordingly, the Assistant Commissioner 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.

September 30, 2013

OAL DKT. NO. EDU 12613-10
AGENCY DKT. NO. 624-11/10

VALERIE CRAIG-NDIAYE, :
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 PETITIONER, :
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 V. : COMMISSIONER OF EDUCATION
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 BOARD OF EDUCATION OF THE CITY : DECISION
 OF JERSEY CITY, HUDSON COUNTY, :
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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 to the Initial Decision.¹

Upon a comprehensive review of the record in this matter, the Commissioner² concurs with the Administrative Law Judge that the Board's decision to withhold the petitioner's increment for the 2010-2011 school year was not arbitrary, capricious and unreasonable. Accordingly, for the reasons expressed therein, the Initial Decision is adopted as the final decision in this matter.

IT IS SO ORDERED.³

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: September 30, 2013

Date of Mailing: October 1, 2013

¹ The record does not contain a transcript from the hearing conducted at the OAL on May 13, 2013.

² This matter has been delegated to the undersigned Assistant Commissioner pursuant to *N.J.S.A.* 18A:4-34.

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36. (*N.J.S.A.* 18A:6-9.1)