

MARGARET WICKS, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 BOROUGH OF FARMINGDALE :
 MONMOUTH COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner appealed the determination of the respondent Board to withhold her salary and adjustment increments for the 2013-2014 school year following a June 2013 investigation of a parental complaint that resulted in a letter of reprimand for unbecoming and unprofessional conduct. Petitioner had previously received a letter of reprimand in 2012 for engaging in inappropriate behavior toward another teacher in the presence of students. Petitioner contended that she received exemplary performance reviews for the 2012-2013 school year, and that the Board's action was arbitrary, capricious, unreasonable, and contrary to legal precedent. The Board asserted that petitioner's increments were appropriately withheld pursuant to *N.J.S.A.* 18A:29-14. The parties filed cross-motions for summary decision. The ALJ issued an Initial Decision in April 2016 granting the Board's motion for summary decision. Upon review, the Commissioner found that there were material facts in dispute which precluded a disposition by summary decision. Accordingly, the Commissioner rejected the Initial Decision on June 9, 2016, and remanded the matter to the OAL for further proceedings.

On remand, the ALJ found, *inter alia*, that: pursuant to *N.J.S.A.* 18A:29-14, a board of education may withhold a teacher's increment for inefficiency or other good cause; a salary increment is not a statutory right, but a reward for meritorious service; the statute was intended to vest local school boards with the ability to withhold salary increments from employees whose performance was not satisfactory during the previous year; in the instant case, petitioner's increment withholding reflected "a continuation of poor teaching techniques and deficient conduct as an instructor;" the petitioner did not meet her burden to prove that the Board's action, based on allegations during the 2013-2014 school year, was arbitrary, capricious or unreasonable; however, the Board should not have based its increment withholding on an incident that occurred during the 2011-2012 school year; petitioner did receive exemplary and commendable ratings in her evaluations; but applauding her for the things she did well does not mean that she cannot be chastised for what she did wrong. The ALJ affirmed the Board's withholding of petitioner's increment, and dismissed the petition.

Upon independent review and consideration, the Commissioner adopted the ALJ's Initial Decision with the modification that the Board did not violate *N.J.S.A.* 18A:29-14 when it took into account an incident from the 2011-2012 school year in considering whether to withhold the petitioner's increment for the 2013-2014 school year.

<p>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.</p>

October 12, 2018

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner, Margaret Wicks, and the Farmingdale Board of Education (Board), as well as the Board’s reply to the petitioner’s exceptions. This matter involves a claim by the petitioner – a tenured teaching staff member – that the Board’s decision to withhold her increment for the 2013-14 school year was arbitrary, capricious and unreasonable. The Board’s decision to withhold the petitioner’s increment was based upon petitioner’s alleged failings and shortcomings, which occurred over a two year period. Following a hearing at the OAL, the ALJ found that the Board’s decision to withhold the petitioner’s increment was not arbitrary, capricious or unreasonable.

In her exceptions, the petitioner maintains that the Initial Decision should be rejected. The petitioner argues that it is undisputed that her qualifications and her recognized teaching abilities clearly warranted the award of her increment for the 2013-2014 school year. In fact, the Superintendent’s testimony supported the petitioner’s “Exemplary” and “Commendable” evaluation ratings over the 2011-2012 and 2012-2013 school years. Additionally, the petitioner’s testimony in direct response to the criticism of one parent at the end of the 2012-2013 school year, further established that the Board’s decision was arbitrary,

capricious and unreasonable. Petitioner testified about teaching 70 science students in grades two through five and 12 students in 8th grade math during the 2012-2013 school year. Out of the over 80 students she taught, only one parent complained about any aspect of petitioner's instructional performance. Therefore, it was arbitrary, capricious and unreasonable for the Board and the Superintendent to conclude that petitioner's exemplary and commendable performance ratings on all of the factors evaluated during the two year period provided a basis upon which to withhold the petitioner's increment for the 2013-2014 school year.

The petitioner also contends that the Board should not have based its increment withholding, in part, on an incident from the 2011-2012 school year. In the Initial Decision, the ALJ properly concluded that the Board's decision to partly rely on an incident that occurred during the 2011-2012 school year was a violation of *N.J.S.A.* 18A:29-14. Yet, the ALJ concluded that the Board's decision to withhold the petitioner's increment based on two years of alleged failings and shortcoming was reasonable. Therefore, Commissioner should reject the Initial Decision and restore the petitioner's increment.

The Board takes a narrow exception to the ALJ's conclusion that the Board should not have based the increment withholding on an incident that happened during the 2011-2012 school year. The Board maintains that the petitioner's increment was withheld for professional shortcomings that occurred during the 2012-2013 school year. However, the Board contends that the offense for which the petitioner was reprimanded during the 2011-2012 school year was for unprofessional behavior in the classroom, which was evidence of a continuing pattern of misconduct by the petitioner. The Board contends that the ALJ improperly cited to case law for the proposition that a board of education cannot consider a pattern of documented misconduct that occurred in previous years when evaluating whether to withhold a teacher's

increment. See, *Probst v. Board of Education of the Borough of Haddonfield*, 127 N.J. 518 (1992); *Dorian Giorgio v. Board of Education of the City of Bridgeton, Cumberland County*, Commissioner Decision No. 75-08, decided February 19, 2008. The Board also stresses that the ALJ's conclusion on this narrow issue contradicts the original Initial Decision of ALJ Robert Bingham, dated April 25, 2016.¹ In the Initial Decision by ALJ Bingham, he recites the authority of *Guyet v. Caldwell-West Caldwell Board of Educ.*, 1989 S.L.D. 53, for the logical evidentiary rule that a pattern of a teacher's unprofessional conduct over a period of two academic years may be related conduct. If so, it is properly considered by a tribunal to determine whether a board of education's decision to withhold a teacher's increment is appropriate under the circumstances. Therefore, the Board maintains that the Initial Decision should be modified accordingly.

Pursuant to *N.J.S.A.* 18A:29-14, a local board of education may withhold an employee's salary increment for inefficiency or other good cause. The recommendation and decision to withhold an employee's increment is "a matter of essential managerial prerogative which has been delegated by the legislature to the board." *Bernards Twp. Bd. of Educ. v. Bernards Twp. Educ. Ass'n.*, 79 N.J. 311, 321 (1979). Moreover, a board of education's exercise of its discretionary powers "may not be upset unless patently arbitrary, without rational basis or induced by improper motives." *Kopera v. Board of Education of West Orange*, 60 N.J. Super. 288 (App. Div. 1960). Therefore, when a school employee challenges a salary increment withholding, the employee bears the burden of proof "of demonstrating that the decision was unreasonable, arbitrary, without rational basis or induced by improper motives." *Kopera, supra*, at 297. In evaluating whether the increment withholding is reasonable, the issues to be

¹ The Initial Decision dated April 25, 2016 that granted summary decision in favor of the Board was rejected by the Commissioner, and the matter was remanded to the OAL for a hearing on the merits because there were material facts in dispute. See, Commissioner Decision No. 211-16, decided June 9, 2016.

determined are: (1) whether the underlying facts were as those who made the evaluation claimed, and (2) whether it was unreasonable for them to conclude as they did upon those facts, bearing in mind their expertise. *Kopera, supra*, at 296-297.

Upon a comprehensive review of the record, the Commissioner finds that the Board's decision to withhold the petitioner's increment for the 2013-2014 school year was reasonable based on deficiencies in her classroom performance and her unprofessional conduct.² Importantly, "the scope of the Commissioner's review is ... not to substitute his judgment for that of those who made the evaluation but to determine whether they had a reasonable basis for their conclusion." *Kopera, supra*, at 296. The Board did not have the burden of proving that the increment withholding was reasonable; rather, the petitioner carried the burden of proving that the Board's action was unreasonable. The Commissioner is in agreement with the ALJ's determination that the petitioner did not meet that burden.

Although the Commissioner is in accord with the ALJ's ultimate determination, it is necessary to address the ALJ's assertion that the Board violated *N.J.S.A.* 18A:29-14 when it partially based its decision on the withholding of petitioner's increment on conduct that occurred during the 2011-2012 school year.³ The relevant case law makes clear that once a

² The Commissioner is mindful that the petitioner has received positive year end evaluations; however, as the ALJ stated: "applauding [the petitioner] for the things she did well does not mean that she cannot be chastised for the things she did wrong, many of which came to light after [a parent] made a complaint." Initial Decision at 20. The Board's decision to withhold the petitioner's increment was based on a thorough investigation conducted by the Superintendent. The investigation was initiated following a parental complaint and it included interviews with students, staff members and the petitioner. The basis for the Board's decision to withhold the petitioner's increment for the 2013-2014 school year was fully and adequately outlined in the Superintendent's letter to the petitioner, dated August 31, 2013.

³ *N.J.S.A.* 18A:29-14, titled "Withholding increments; causes; notice of appeals," provides:

Any board of education may withhold, for inefficiency or other good cause, the employment increment, or the adjusted increment, or both, of any member in any year by a recorded roll call majority vote of the full membership of the board of education.

tenured teacher's increment vests, a board of education cannot reduce the employee's compensation. *Dorian Giorgio v. Board of Education of the City of Bridgeton, Cumberland County*, Commissioner Decision No. 75-08, decided February 19, 2008; *Henry Pruitt, et al. v. Board of Education of the City of Englewood, Bergen County*, Commissioner Decision No. 262-93, decided October 25, 1993, *affirmed with clarification*, State Board of Education, Decision No. 67-93, decided August 2, 1995. Thus, for example, if an increment is scheduled to take effect on July 1 of a given year, any board action to withhold an employee's increment for the upcoming school year must occur prior to July 1.

However, the timing restriction and the statutory provision protecting employees from the reduction in compensation under *N.J.S.A.* 18A:29-14 does not mean that a board of education cannot look at conduct from prior school years when considering whether an employee has engaged in a pattern of unprofessional conduct necessitating the withholding of an increment.⁴ “[I]n the case of withholding an increment, past conduct over a reasonably relevant period of time may properly be considered by a board of education in determining whether or not a teacher's increment should be withheld.” *William David Guyet v. Board of Educ. of the Caldwell-West Caldwell School District, Essex County*, 1989 SLD 53, 58 (citations omitted). In the instant matter, the petitioner's unprofessional conduct during the 2011-2012 school year involved a confrontation with a co-worker during which she raised her voice in front of students. As outlined in the Superintendent's letter, dated August 31, 2013, that incident was directly

⁴ *N.J.S.A.* 18A:6-10, titled “Dismissal and reduction of persons under tenure in public school systems” states:

No person shall be dismissed or reduced in compensation if he is or shall be under tenure of office, position or employment during good behavior and efficiency in the public school system of the state ... except for inefficiency, incapacity, unbecoming conduct, or other just cause, and then only after a hearing held pursuant to this subarticle.

related to the unprofessional conduct, poor teaching techniques and classroom management that continued during the 2012-2013 school year. Therefore, the Board did not violate *N.J.S.A.* 18A:29-14 when it took into account the incident from the 2011-2012 school year when it was considering whether to withhold the petitioner's increment for the 2013-2014 school year.

Accordingly the Board's decision to withhold the petitioner's increment for the 2013-2014 school year was not arbitrary, capricious or unreasonable. The Initial Decision is adopted as modified.

IT IS SO ORDERED.⁵

COMMISSIONER OF EDUCATION

Date of Decision: October 12, 2018

Date of Mailing: October 12, 2018

⁵ Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division in accordance with the applicable Appellate Division rules.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

MARGARET WICKS,

Petitioner,

v.

**FARMINGDALE BOARD OF
EDUCATION,**

Respondent.

OAL DKT. NO. EDU 8566-16

AGENCY DKT. NO. 11-1/15

(ON REMAND EDU 1574-15)

Stephen B. Hunter, Esq., for petitioner (Detzky, Hunter & DeFillippo, LLC, attorney)

Francis J. Campbell, Esq., for respondent (Campbell and Pruchnik, LLC, attorneys)

Record Closed: August 3, 2017

Decided: August 3, 2018

BEFORE **LISA JAMES-BEAVERS**, Acting Director and Chief ALJ:

STATEMENT OF THE CASE

Petitioner Margaret Wicks (petitioner or Mrs. Wicks) appeals the respondent Farmingdale Board of Education's (Board) denial of her salary and adjustment increments for the 2013-2014 school year for cause. Petitioner must prove by a preponderance of the credible evidence in the record that the Board was arbitrary, capricious or unreasonable in its decision.

PROCEDURAL HISTORY

On August 28, 2013, the Board voted to withhold Mrs. Wicks' salary and adjustment increments for the 2013-2014 school year. The Board advised Mrs. Wicks by Letter of Reprimand/Notice of Board Action signed by the Superintendent, Cheri-Ellen Crowl, and dated August 31, 2013.

On September 17, 2013, Mrs. Wicks submitted a rebuttal letter disagreeing with the August 2013 reprimand. (J- 9.) Mrs. Wicks and the Farmingdale Teachers Association (FTA) also filed a grievance over the Board's denial of her increments with the Public Employment Relations Commission (PERC). On October 31, 2014, PERC ordered restraint of the arbitration sought by Mrs. Wicks and the FTA.

On January 16, 2015, Mrs. Wicks appealed to the Board's decision to the Commissioner of Education, asserting that the Board's decision to withhold her salary increment was arbitrary, capricious and unreasonable. On February 3, 2015, the Board filed its answer, asserting that its action was justified. The matter was then transmitted to the Office of Administrative Law (OAL), where on the same date, it was filed as a contested case pursuant to N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Mrs. Wicks and the Board filed cross-motions for summary decision and replies before Administrative Law Judge Robert Bingham. On April 25, 2016, Judge Bingham granted the Board's motion for summary decision finding no material facts in dispute and dismissing the petition of appeal. He denied Mrs. Wicks' cross-motion. Mrs. Wicks filed exceptions to Judge Bingham's decision and the Board filed cross-exceptions. By decision dated June 9, 2016, the Commissioner remanded the case to the OAL, concluding that Mrs. Wicks presented genuine issues of material fact in her certification that precluded the granting of summary decision.

The remand was assigned to the undersigned and I held a hearing on October 31 and November 1, 2016. The record closed following receipt of the parties' post-hearing briefs.

STIPULATED FACTS

The following facts have been stipulated by the parties.

1. Petitioner is a tenured teaching staff member who has been employed within the Farmingdale School District since September 1990. (Her maiden name was Margaret Waltsak). During the approximately twenty-five years petitioner has been employed within this School District she has taught the following grade levels and subjects:

6th – 8th grade math and science
5th grade self-contained classes
Resource room
3rd – 5th grade math
2nd – 5th grade science
In class support for: 6th – 8th grade SS, 6th – 8th grade math, kindergarten,
2nd grade, 5th grade

2. The Evaluation Key that was previously used in the Farmingdale School District lists five rating levels: Exemplary, Commendable, Satisfactory, Needs Improvement and Unacceptable. “Exemplary” is defined as: “the performance is unique and extraordinary and shall serve as a model for colleagues,” and “commendable” is defined as: “the performance exceeds expectations and is highly effective.”

3. Petitioner’s summary year end evaluation for the 2011-2012 school year, dated June 14, 2012, rated her as being “exemplary,” the highest possible evaluative category, regarding all of the subject areas. (P-10.)

4. During the 2011-2012 school year petitioner received a letter of reprimand dated April 19, 2012. (P-11.) Petitioner’s letter of rebuttal to the letter of reprimand was dated April 30, 2012. (P-12.)

5. Petitioner's letter of reprimand dated April 19, 2012 did not result in any negative summative year-end evaluative comments since, as noted in paragraph three, petitioner received exemplary evaluative ratings regarding every evaluative criterion in her 2011-2012 year end evaluation two months after petitioner's receipt of the April 19, 2012, letter of reprimand.

6. Petitioner received her increment for the 2012-2013 school year.

7. Petitioner's summary year-end evaluation for the 2012-2013 school year that she received on June 20, 2013, concluded that petitioner was recommended for the receipt of her employment and adjustment increments for the 2013-2014 school year. (P-13.)

8. Of the ten major areas of evaluation, petitioner's 2012-2013 evaluation rated her "exemplary" in the following two areas:

- Contribution to total school effort
- Monitoring of pupil progress

9. Petitioner's 2012-2013 year-end evaluation also rated her as "Commendable" in these remaining eight areas:

- Planning and Preparation
- Subject Competency
- Instruction
- Communication Techniques/Qualities
- Classroom/Student Management
- Interpersonal Relationships
- Professional Growth
- Personal Qualities/Characteristics

10. On June 12, 2013, the mother of two children in petitioner's 2nd and 4th grade classes made a verbal complaint about petitioner during a Board meeting on that date. In a letter dated June 18, 2013, that parent referred to her allegations

regarding criticisms of petitioner's teaching that were never observed by the parent, during the 2012-2013 school year. (P-14.)

11. On June 20, 2013, two days after her receipt of the parental letter, Superintendent Crowl prepared the 2012-2013 year-end teacher evaluation and, as referenced above, she recommended that petitioner be reappointed and receive her salary adjustment increment for the 2013-2014 school year. (P-13.)

12. On August 28, 2013, the Board voted to withhold petitioner's adjustment increment. Petitioner was advised of the Board's action in an August 31, 2013, letter written by Superintendent Crowl. (P-16/J-8.)

13. The August 31, 2013, letter from Superintendent Crowl stated that it represented an "official written reprimand" and that:

. . . [T]his reprimand follows a reprimand that was given to you last year. Your failings and shortcomings as a teacher in consecutive school years as related in this letter constitute the reasons why I recommended withholding your salary increments and adjustment for the coming school year

[P-16.]

14. Petitioner thereafter sent a letter of rebuttal to the Superintendent and the Board dated September 17, 2013, responding to the parental complaint and the Board's findings. (P-18.)

15. The FTA filed a grievance dated September 13, 2013, maintaining that petitioner had been disciplined without just cause when her increment was withheld for the 2013-2014 school year.

16. On February 10, 2014, the Board filed a Scope of Negotiations Petition with PERC, requesting a restraint of binding arbitration of the grievance filed by the FTA.

17. In a decision dated October 30, 2014, PERC granted the Board's request for a restraint of binding arbitration of the grievance filed by the FTA. (P-19.)

TESTIMONY

Mrs. Wicks

Mrs. Wicks testified that she has been employed by the Board for twenty-six years. She has always had excellent evaluations. In 2011–2012 she worked as in-class support for a special education fifth-grade class. At the end of the school year, she received all exemplary ratings. She signed that evaluation on June 14, 2012.

At the end of March 2012, Mrs. Wicks had an incident with a colleague. Based on that incident, she received a letter of reprimand. (J-3.) On March 26, 2012, she was in-class support for fifth-grade language arts teacher Deborah Paredes. Ms. Paredes did not teach with a lesson plan that day and apparently handed out homework after Mrs. Wicks had left the class. Mrs. Wicks borrowed a student copy of the homework and left her homework group in order to get a copy to bring to the office. She was working homework club with Cathy Quigley, who was not happy when she left the group. She took the homework to Ms. Paredes and asked where the paper was. She wanted to get a clean copy in order to give it to the mother that needed it and was in the office looking for homework. The problem was that Mrs. Wicks did not have the work to modify for the special education student. The whole incident took just minutes. She received a letter of reprimand dated April 19, 2012. (J-3.) At the end of her evaluation year, there were no references to the letter of reprimand. She wrote a rebuttal letter that she asked to have placed in her file. She received her increment for the following school year. The incident was never discussed again.

In the 2012-2013 school year, Mrs. Wicks was assigned to teach second-grade, third-grade, fourth-grade, and fifth-grade science, and eighth-grade math. She had to go to each class; they did not come to her. At the end of the year, she received an evaluation rating her exemplary in two areas and commendable in the remaining eight areas. Superintendent Crawl recommended that she receive her adjustment increment for the

following school year. Prior to the receipt of her year-end evaluation dated June 20, 2013, there was an incident that occurred involving a parental complaint. That year she taught seventy science students and about twelve eighth-grade students, or approximately fifty percent of the students in the school district since there were only 150 students in the district.

The parent, Mrs. I., wrote a complaint letter dated June 18, 2013. (J-6.) Mrs. I. complained that Mrs. Wicks often eats in the classroom. Mrs. Wicks explained that during this time her back was really bothering her and she was alternating between taking Advil and Tylenol. In the afternoon, she took the Tylenol with pretzels, but she also provided pretzels to the kids at the same time. The pretzels are to coat her stomach due to problems she was having with her kidneys. The second complaint of the parent was that she told students to stop saying "God bless you" when a student sneezed. Mrs. Wicks explained that the children were doing fake sneezing and kept saying, "God bless you" and she wanted them to stop. This was not mentioned in the report of the superintendent.

The next complaint of the parent was that after a test, Mrs. Wicks told the entire fourth grade that no one in the class got a good grade the day before. She did not hand out the graded test so Mrs. I.'s daughter came home upset. Mrs. Wicks explained that it was a quiz not a test and her daughter's score of 82 was not great. She re-taught the lesson and the material was placed on another? test, but she apologized if Mrs. I.'s daughter came home anxious. She had a conversation with Mrs. I. about this and she apologized to her. Mrs. I.'s children are very sensitive. She thought the issue was resolved with their conversation.

The fourth complaint of the parent was that students complained about Mrs. Wicks yelling in the classroom. Mrs. I. said that the tone she used in the classroom was not the tone that they used in their house and the students were concerned that that she spoke loudly. This was in September 2012. Mrs. Wicks explained that her son is hearing impaired so in her household she has to yell for him to hear her. Most people do not realize that he is hearing impaired, but he has a 504 plan. She did not yell at students in a disciplinary sense. She is on the same floor as Superintendent Crowl and believes that the superintendent would have brought it to her attention if she was yelling.

The last point that Mrs. I. made in her letter is that Mrs. Wicks said to Mrs. I. that there was a bullying situation that warranted her raising her voice. Mrs. Wicks was referring to an incident in which she had to talk over boys who were telling a student that she could not go to the bathroom. She thinks maybe that she should not have said anything to Mrs. I. that day.

Mrs. Wicks was interviewed by Superintendent Crowl on June 18, 2013. On June 20, 2013, she signed her evaluation. (J-5). That evaluation recommended that she receive her increment. On August 31, 2013, Mrs. Wicks received the letter of reprimand and document referring to the decision to withhold her increment for the 2013-2014 school year. At a retirement party on the last day of school, Superintendent Crowl told her she needed to bring representation regarding a parent complaint. She was shocked. She does not recall ever responding to Mrs. I's allegations. She knows that interviews took place. In addition to the parent's allegations, Superintendent Crowl also referenced allegations that were not included by the parent such as she did not use the same set of rules that were used by other teaching staff members and that her standards of instruction deviated from the norm. At the time, she taught second, third, fourth and fifth-grade science so she was caught between whether to use second-grade standards or fifth-grade standards.

Mrs. Wicks had a policy that if students were caught three times not following along in the reading, they had to write three facts. This happened to one student all year. She also tried to withhold lab from students who were not current with their homework, but Superintendent Crowl said she could not do that and she did not. Regarding the allegation that Superintendent Crowl heard that she cut down on the number of labs toward the end of the year, Mrs. Wicks explained that she had to prepare for NJ ASK testing, then it was spring break and then she had to prepare for the technology fair. Mrs. Wicks was also criticized for requiring a signature on books that needed to be covered. If they covered the book, they got the grade. None of these criticisms were raised by Superintendent Crowl before the parent complaint. Regarding the NJ ASK test for the 2012-2013 year, all of her students passed, with fifty-four percent testing advanced proficient.

Superintendent Crowl's letter referred to her alleged shortcomings and failings over a two-year period of time, 2011-2012 and 2012-2013. Superintendent Crowl never acknowledged that her own evaluations gave petitioner twelve exemplary ratings and eight commendable ratings during that same time.

On cross-examination, Mrs. Wicks acknowledged that she neglected her duty as a homework club supervisor and instructor when she left to go find Ms. Paredes. She agreed that she should have used the intercom to reach her. She also understood that it was bad that the dispute with Ms. Paredes occurred in front of students. Nevertheless, her 2011-2012 year-end evaluation was exemplary. However, the letter of reprimand stated that it will be placed in her personnel file and that "[t]his type of behavior cannot occur again or I will recommend further action which could have a negative financial impact on your earnings." (J-8 at 28.)

Mrs. Wicks taught two children of Mrs. I. in 2012-2013 in second and fourth grade. They were good students and Mrs. I. was very involved in their education. After the superintendent interviewed Mrs. Wicks over the summer, she placed items in her letter that were not included in Mrs. I.'s complaints and also left some of Mrs. I.'s complaints out of her letter. She did not see the notes from the other interviews the superintendent conducted. She wished that Mrs. I. had come to her with all of her concerns earlier than June 12, 2013, when she brought them before the Board. Mrs. Wicks is the first teacher who had to teach grades two through eight in the same year. She had to teach each grade every day varying to their personalities and their needs. That is a large variation. She thinks she did a very good job under the circumstances, in addition to having had spinal surgery.

Regarding the first complaint, eating in class, she agreed that her drinking a protein shake in the morning with her fourth-grade class may be considered eating in addition to the pretzels in the afternoon. This was in February when she had the pain. She was surprised at the number of students who said that she yelled in class, but admitted to raising her voice at times and says that she is more mindful of her volume now.

The students enjoyed the labs that Mrs. Wicks taught without a laboratory. They were done in class. When she lessened them (she did not agree they were stopped altogether) it was for testing, which meant class periods were reduced to thirty minutes from forty minutes. Then there was spring break. Then the students worked on their computer lab for the technology fair.

Cheri-Ellen Crowl

Cheri-Ellen Crowl was superintendent for the Board from 2006 to 2015. Prior to that she was superintendent at the Bayhead Elementary School. She holds a kindergarten through eighth-grade teaching certificate, a principal certificate, a supervisor's certificate and a chief school administrator certificate. She taught school for twenty-one years before becoming a superintendent.

Mrs. Crowl discussed her investigation of the incident that resulted in her reprimand of Mrs. Wicks. She received the complaint from Ms. Paredes headed, "Date of Incident March 26th". Mrs. Wicks was special education teacher in the fifth-grade language arts class of Ms. Paredes. Ms. Paredes came to her very upset and said Mrs. Wicks was angry, yelling and screaming. She interviewed approximately six of the fourteen students in the homework club at the time who said they were fearful. She also interviewed Rebecca Snead, the other teacher present in the room at the time and, although Ms. Snead could not hear exactly what was being said, she believed that Mrs. Wicks' tone was one of frustration rather than anger.

Mrs. Crowl concluded her investigation and issued the letter dated April 19, 2012. (J-3.). What troubled her most is that the incident happened in front of second, third and fourth-grade children. She still believes that her rating of Mrs. Wicks that followed, which gave her exemplary ratings, was accurate. This was one incident for which Mrs. Wicks received a reprimand. Mrs. Crowl performed an observation of Mrs. Wicks and Ms. Paredes' classroom on March 20, 2012, and found it to be an excellent lesson. It was appropriate, professional and the two teachers seemed to be working well together with no ongoing problem.

Mrs. Crowl discussed her other letter to Mrs. Wicks dated August 31, 2013, which followed the June 12, 2013 Board meeting at which C.I. voiced her concerns. (J-8.) After the meeting, she advised the Board that the parent should place her concerns in writing, which C.I. did and delivered to her on June 18, 2013. (J-6.) She started her investigation immediately as it was the end of the school year. She interviewed C.I.'s children first, then she interviewed other students that were selected by the second grade home room teacher and the fourth grade homeroom teacher, the grades of C.I.'s children. There was only one class per grade with a total of 154 students. The teacher was present in each interview and also the business administrator/board secretary was present to keep notes. The students were asked if they have an opportunity to eat in class and they had pretzels that were called math brain snacks. When they were asked if Mrs. Wicks eats in class, one student said, "Yes, and she eats our brain snacks. They're for us." The fourth graders also said that Mrs. Wicks ate in class. They mentioned the breakfast shake and a breakfast bar. The second graders all said she ate in class; that they were eating with her.

Mrs. Crowl asked them about the incident in which they were told not to say, "God bless you," but she felt it was really trivial and did not include it in her letter. Mrs. Crowl asked the students about the classroom test. The Friday folder was a school policy that every important paper would go home with documents for the parents to sign. Regarding the specific comment that Mrs. Wicks made that, "Nobody did good," they said that it was concerning to not get their paper back at that time and have it reviewed to go over their answers. They had to wait for the Friday folder. Mrs.I.'s daughter is an A student so she was worried. The aides in the class with Mrs. Wicks said that they did not see her review any tests with the children. The other students also confirmed that they did not get tests back to review with the teacher. Normally, a teacher would go over tests with the students.

Every student Mrs. Crowl interviewed stated that Mrs. Wicks yelled in class, so her first question was, "Do you know the difference between yelling and raising your voice?" They said that they did and gave examples. They said that certain students were yelled at continuously and one student said that she felt fearful because of the yelling and felt sad about the others who were getting yelled at. Mrs. Crowl too, felt sad about this. She

ended her interviews by asking what they like about Mrs. Wicks' class. They said that they loved the labs, but they ended.

C.I. was also concerned about the academic penalties. Mrs. Wicks had rules that Mrs. Crowl agreed with, but was not in favor of a penalty for not following along with the reading with one's finger. Mrs. Crowl thought that special education students may have a hard time with that. She did not agree with losing time off of the playground or having to write a full report for not following along. She also did not agree that students would get a zero for not covering their book. The school was trying to promote better behavior in a positive rather than a negative way.

The Board discussed the recommendation to withhold the increment at its meeting of August 28, 2013 and the Board unanimously approved the action.

Mrs. Crowl began her investigation with five staff members who taught with Mrs. Wicks. She began by saying she had a letter from a parent and had some questions for them that she had written. She had a representative from the FTA at all times. They verified that Mrs. Wicks ate breakfast bars and breakfast drinks in class. They verified that Mrs. Wicks liked order in her classroom and would yell. She was strict and demanding and not as nurturing as other teachers. One teacher said that Mrs. Wicks yelled at her. They verified that Mrs. Wicks did not review tests and quizzes in class, but placed them in the Friday folder. They also gave some positive comments.

The teachers said that Mrs. Wicks pointed out some students more than others in a negative way. Mrs. Crowl agreed with reasonable rules such as pushing a chair in and standing in line, but other rules such as following along with reading with a finger may not be appropriate for special education students. Other teachers did not have that rule.

Mrs. Crowl then interviewed students with their teachers present. She asked each the same questions. The students said that Mrs. Wicks eats in class. One said that she eats their snacks and does not share. Some of the students said that Mrs. Wicks yells occasionally and others said she has yelled more than a few times. She asked if they

understood the difference between yelling and raising your voice and they said yelling is mean. Some students said that students felt fearful of Mrs. Wick's actions.

The students expressed disappointment that the labs had stopped in February. The technology fair should not have stopped them as Mrs. Wicks said. They also told how they accorded penalties or incentives for non-instructional duties.

Although Mrs. Crowl had the complaint since June 18, 2013, she did not report it in Mrs. Wicks' evaluation because she wanted to investigate the allegations in fairness to Mrs. Wicks. They were serious allegations, so she took her time. She then revised her year-end recommendation to reflect denial of her increment. Mrs. Crowl's observation of Mrs. Wicks was commendable.

On cross-examination, Mrs. Crowl reviewed the various areas of Mrs. Wicks' 2012 evaluation on which she was rating exemplary as stipulated. (P-10/J-2.) She agreed that the evaluation was an accurate evaluation of Wicks' performance.

Regarding the incident with Ms. Paredes, she interviewed Mrs. Wicks in addition to the students. She did not interview every student present. The five students were selected by asking the homeroom teachers of the second and fourth grades to choose students for her. She chose those grades because Mrs. I's children are in those grades. She did not need the permission of the students' parents to interview them. Although Mrs. Snead was present, she did not believe that Mrs. Wicks was yelling. However, Mrs. Snead remained with her students and did not hear well. Notwithstanding the letter of reprimand, all of Mrs. Wicks' ratings were exceptional. Mrs. Wicks' final evaluation involved Wicks and Paredes having to work together in the same classroom.

Mrs. Crowl would recommend that any parent who has a complaint against a staff member to go to that staff member first. If a parent showed up at a board meeting and complained about a teacher, she would tell him or her to direct the complaint to the teacher first. However, the board president would not stop the parent as the parent has the right to speak. It is board policy that parents can refer to teachers by name publicly. She would

investigate every complaint made about a teacher. She does not recall students complaining about Mrs. Wicks' teaching during the 2011-2012 year.

All teachers are required to teach five classes, but only Mrs. Wicks was assigned to teach five different grade levels in the 2012-2013 school year. She was assigned to second, third, fourth and fifth grade Science classes and an eighth grade Math class. Mrs. Wicks had taught math before and had lesson plans. Mrs. Crowl knew that Mrs. Wicks was up to the challenge. Mrs. Wicks taught sixty to seventy students, which was almost half of the student body of 150.

Mrs. I had contacted Mrs. Crowl early in the year and Mrs. Crowl told Mrs. Wicks to call Mrs. I and she did. This complaint was about the tests not being reviewed. Mrs. Crowl had asked the teachers at a meeting at the beginning of the school year to review tests and quizzes with the students after they were graded. Notes from the staff meeting would confirm this. Mrs. Crowl had no reason to think that Mrs. Wicks did not review exams with her students until the complaint. Mrs. I called her just before the meeting to tell her that she was going to take her complaint to the board. Mrs. Crowl and Mrs. I. are neighbors but not social friends. They live three houses from each other in the same cul-de-sac. Mrs. Crowl did not ask why Mrs. I spoke to the board anyway after she asked her not to do so. Mrs. Bonnie Wright had asked Mrs. I to put her complaint in writing. There is no official policy prohibiting drinking in the classroom. However, a teacher should not eat in front of students. It is viewed as disrespectful. If a teacher had a medical condition, they would have the nurse manage it. She did not observe Mrs. Wicks eating when she should not have been. She saw Mrs. Wicks teaching several times a week. Other parents complained of Mrs. Wicks yelling in the class. She advised Mrs. Wicks of the three complaints. They were resolved before the June 20, 2013 evaluation. She interviewed the students before June 20, but still had to interview teachers afterwards.

If Mrs. Crowl had had the complaint earlier, she would have gone back to look at the lesson plans to see if they contradicted the allegation that there were no labs after February. However, all the teachers and students said that Mrs. Wicks stopped the labs after February. When Mrs. Crowl did check the lesson plans, the labs were on there, but

they may not have happened. She concluded based on her interviews that the labs were not implemented.

In rebuttal, Mrs. Wicks testified that she planned and implemented lab activities after February 2013. She had two labs, which is less than anticipated, but she had them. She also added that she taught a special education class between periods two and three depending on the day.

FINDINGS OF FACT

Where facts are contested, as they are here, the trier of fact must assess and weigh the credibility of the witnesses for purposes of making factual findings as to the disputed facts. Credibility is the value that a finder of the facts gives to a witness's testimony. It requires an overall assessment of the witness's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963).

Mrs. Wicks was a credible witness as she admitted most of the conduct that was set forth in Mrs. Crowl's letter explaining the basis of the increment withholding. She merely downplayed it or provided a justification for it. These will be addressed as numbered in Mrs. Crowl's letter. Mrs. Crowl was also a credible witness. She was very knowledgeable about Board policies and procedures and the role of teachers as well.

1. Eating in class—Mrs. Wicks testified and I **FIND** Mrs. Wicks sometimes ate pretzels to coat her stomach when she needed to take Advil or Tylenol after her spinal surgery. She also admitted to drinking a protein shake in the mornings. Mrs. Crowl was not aware of her eating in class prior to Mrs. I.'s complaint, but recommended that if she needs to eat due to a health-related condition, that she provide a note from her physician and make arrangements with the school nurse.

2. Issuing unreasonable reprimands to students—Mrs. Wicks testified and I **FIND** that she had a policy that if students were caught three times not following along in the reading, they had to write three facts. Only one student in the 2012-

2013 school year had to write facts. Mrs. Crowl advised in her letter that it was unacceptable to punish a child for what could be a skill-deficit. Mrs. Crowl focused most of this part of her letter on ways that Mrs. Wicks could correct misbehavior and encourage responsibility without academic penalties.

3. Failing to review tests with students—Mrs. Wicks testified and I **FIND** that she did not review a quiz with a class of her students, one of which was the child of Mrs. I., and her failure to do so, coupled with her announcement that everyone in the class did poorly, made Mrs. I's daughter anxious. Mrs. Wicks apologized to Mrs. I. and thought the issue was resolved. Mrs. Crowl's investigation revealed that Mrs. Wicks often did not review assessments, but sent them home in a "Friday folder." In her letter, Mrs. Crowl advised Mrs. Wicks to review the assessments with the students as an important and useful tool for them to understand how they are doing.

4. Yelling at students—Mrs. Wicks testified and I **FIND** that she raises her voice, although not always in a disciplinary way, but that she does speak louder than other teachers. Mrs. I brought it to her attention prior to bringing to the board and she thought the issue was resolved when she explained why she felt justified in raising her voice to a bullying incident. In Mrs. Crowl's interviews, students and staff members stated that Mrs. Wicks yells during class and it makes them uncomfortable. Mrs. Crowl advised that yelling should never be an option.

In addition, regarding Mrs. Wicks' failure to continue labs after February, I **FIND** that although Mrs. Wicks had lesson plans reflecting that she did labs with the students all year long, she had trouble continuing them after February due to NJ ASK testing and the technology fair, along with spring break. Mrs. Wicks' rebuttal was the least credible of her testimony when she tried to say that because she had the lesson plans for the labs, she implemented them. In her direct testimony, she had not denied that she did not continue them, but explained why she did not. That testimony was more credible. Students were disappointed that the labs stopped.

Regarding the 2012 incident with Mrs. Paredes, Mrs. Wicks testified and I **FIND** that she left her homework group of students that she had with Cathy Quigley and went to confront Ms. Paredes. The dispute in which Mrs. Wicks raised her voice occurred in front of students. Mrs. Wicks agreed that she should not have left her job as instructor in the homework group and should not have raised her voice in front of students. There is no record of her having had another confrontation with staff in the 2012-2013 school year after she was warned not to do so again.

I **FIND** that notwithstanding the above concerns, Mrs. Wicks was an excellent teacher who taught over half of the student body in grades two, three, four, five and eight in one school year 2012-2013 -- the year in which she had spinal surgery. She deserved the exemplary ratings she received as well as her commendable ones during the 2011-2012 and 2012-2013 school years. I **FIND** that she had difficulty adjusting between the very young students she needed to coddle in second grade and the more advanced students with whom she could be sterner in the fifth and eighth grades. She had a difficult year.

LEGAL ANALYSIS AND DISCUSSION

Salary increments are controlled by N.J.S.A. 18A:29-14, which provides in pertinent part:

Any board of education may withhold, for inefficiency or other good cause, the employment increment, or the adjustment increment, or both, of any member in any year by a recorded roll call majority vote of the full membership of the board of education. It shall be the duty of the board of education, within 10 days, to give written notice of such action, together with the reasons therefor, to the member concerned. The member may appeal from such action to the commissioner under rules prescribed by him. The commissioner shall consider such appeal and shall either affirm the action of the board of education or direct that the increment or increments be paid.

[bid.]

An increment is not a statutory right but “a reward for meritorious service to the school district.” N. Plainfield Educ. Ass'n v. N. Plainfield Bd. of Educ., 96 N.J. 587, 593 (1984). The statute was intended to vest local school boards “with the ability to withhold increments” from those who had “not performed well during the previous year.” Probst v. Haddonfield Bd. of Educ., 127 N.J. 518, 526 (1992). A local board's exercise of its discretionary powers “may not be upset unless patently arbitrary, without rational basis or induced by improper motives.” Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). The issues to be determined are: “(1) whether the underlying facts were as those who made the evaluation claimed, and (2) whether it was unreasonable for them to conclude as they did upon those facts, bearing in mind that they are experts” Id. at 296-97. The petitioner has the burden of showing that the denial of the salary increment was arbitrary or capricious. Id. at 288.

Courts have used varying language when trying to expound on the “arbitrary, capricious or unreasonable” standard. Despite the variations, the common element among all of the decisions is that courts give boards of education actions a strong presumption of validity. See Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965) (holding that school board decisions “entitled to a presumption of correctness”), aff'd, 46 N.J. 581 (1966). As such, a school board’s decision “will be upheld by the Commissioner of Education, absent a showing of bad faith, illegal motive or a lack of rational basis.” Raimondi v. Westwood Reg'l Bd. of Educ., EDU 5904-04, Initial Decision (Sept. 26, 2005), adopted, Comm'r (Dec. 23, 2005), aff'd, State Bd. (June 7, 2006) <<http://njlaw.rutgers.edu/collections/oal/search.html>>.

As stated above, a determination must be made as to (1) whether the underlying facts were as those who made the evaluation claimed, and (2) whether it was unreasonable for them to conclude as they did upon those facts, bearing in mind their expertise. Kopera, 60 N.J. Super. at 296-297.

1. The Board Should Not Have Based Its Increment Withholding on an Incident from the 2011-2012 School Year.

Although I have found that Mrs. Wicks was wrong to have left her assigned duty and engaged in a verbal dispute with a teacher in front of students during the 2011-2012 school year, she was appropriately reprimanded for that on April 19, 2012. She should not have been punished a second time for the same offense the following year. Indeed, in Giorgio v. Bd. of Educ. of the City of Bridgeton, 2008 N.J. AGEN LEXIS 142 (February 19, 2008), the Commissioner of Education held that a local board cannot base an increment withholding on an incident that occurred in the immediately preceding school year. In that case, the Commissioner held that when the board acted to withhold an increment after July 1 of the year in which the conduct occurred, the petitioner's salary had already vested and therefore the board's action reduced petitioner's compensation in violation of the tenure laws. The Commissioner cited the earlier State Board of Education decision, Henry Pruitt et al. v. Bd. of Educ. of the City of Englewood, Commissioner of Education Decision No. 262-93, decided October 25, 1993; affirmed with clarification, State Board of Education Decision No. 67-93, decided August 2, 1995, which also held that when the board takes action to withhold the increments of petitioners subsequent to the start of their twelve-month terms at compensation fixed by the district's salary guide, it constitutes an improper reduction in compensation under the tenure laws.

Further, the New Jersey Supreme Court similarly held that the purpose of N.J.S.A. 18A:29-14 is to provide local boards with the ability to withhold increments from teachers who had not performed well during the previous year. Probst, 127 N.J. at 526. The fact that Mrs. Crowl and thus, the Board, based the withholding of Mrs. Wicks' increment partially on the reprimand of petitioner was wrongful and in violation of both the letter and the spirit of N.J.S.A. 18A:29-14.

2. Petitioner Did Not Meet Her High Burden of Showing that the Board's Action Based on the Allegations of the 2012-2013 School Year Were Arbitrary, Capricious and Unreasonable.

If the Board had based the withholding of Mrs. Wicks' increment solely on the incident in 2012, then Mrs. Wicks would have had a great argument that the Board was arbitrary and capricious in its action. However, the 2012 incident is not the sole basis of the Board's action. In fact, that incident constitutes approximately three sentences of Mrs.

Crowl's five page letter advising Mrs. Wicks of the basis of her increment withholding. What Mrs. Crowl actually says in those sentences is, "Your actions reflect a continuation of poor teaching techniques and deficient conduct as an instructor." (P-16/J-8 at 5.) Mrs. Wicks' raising of her voice, although not shown to have continued against additional staff members, but in her classroom, can be considered a continuation of what she was cautioned about in her reprimand. That reprimand stated that "This type of behavior cannot occur again or I will recommend further action" Mrs. Wicks did not engage in the exact type of behavior again, but as set forth on page four of Mrs. Crowl's letter, she viewed Mrs. Wicks' raising her voice in the classroom as a continuing lack of judgment and diplomacy in dealing with situations that may cause a scene in front of students.

Again, it is not the Board's burden to prove the correctness of its action. Mrs. Wicks is to be applauded for her exemplary and commendable ratings on her evaluations. However, applauding her for the things she did well does not mean that she cannot be chastised for the things she did wrong, many of which did not come to light until after Mrs. I. made her complaint public. Mrs. Wicks was aware of at least two of Mrs. I.'s concerns, specifically the yelling and the failing to review a quiz after telling the class that everyone did poorly, so she was not completely blindsided. She was incorrect in thinking that she had resolved those issues to Mrs. I.'s satisfaction. Mrs. Crowl admitted to not having witnessed yelling or eating in her observations of Mrs. Wicks, but she provided competent evidence of the nature and substance of her investigation and the results thereof.

Mrs. Wicks bases much of her argument on Mrs. Crowl's testimony that her interviews were completed prior to her issuance of the June 2013 evaluation and recommendation for Mrs. Wicks to receive an increment. However, Mrs. Crowl had not yet interviewed Mrs. Wicks, which she did on July 10, 2013. It was at that time that Mrs. Wicks admitted much of the conduct that Mrs. Crowl had not previously known and that became the basis for the increment withholding. Mrs. Crowl's investigation revealed shortcomings in Mrs. Wicks performance as a teacher that were otherwise unknown to her. This is particularly true with regard to the labs that were not discontinued after February 2013. Because Mrs. Crowl relied on Mrs. Wicks' lesson plans, she had every reason to believe that they were implemented as expected until her investigation proved otherwise.

Taking that part of her investigation into account along with the aspects of Mrs. I's complaint that she was able to verify, provided a rationale for Mrs. Crowl to change her opinion of Mrs. Wicks teaching or at least to see that it was not as stellar as she had believed.

Therefore, getting back to the two questions under Kopera: (1) whether the underlying facts were as those who made the evaluation claimed, and (2) whether it was unreasonable for them to conclude as they did upon those facts, bearing in mind their expertise, **CONCLUDE** that 1) the underlying facts were as Mrs. Crowl claimed as a result of her investigation; and 2) it was not unreasonable for Mrs. Crowl to conclude that she was justified in recommending the withholding of Mrs. Wicks increment or for the Board to unanimously accept that recommendation. It was not unreasonable for Mrs. Crowl to revise her evaluation of Mrs. Wick's performance and to change her recommendation based on the outcome of her investigation.

As previously stated, Mrs. Wicks had a very high bar to get over to prove that the withholding of her increment should be overturned. The cases all note the broad discretionary authority of the Board to set standards and evaluate its staff as well as the "presumption of correctness," of the Board's actions, absent a showing of bad faith, illegal motive or a lack of rational basis. Mrs. Wicks did her job well under the circumstances that she was presented with, but she had shortcomings that came to light at the end of the year. Therefore, I **CONCLUDE** that Mrs. Wicks failed to prove by a preponderance of the credible evidence that the board's action was patently arbitrary, without rational basis or induced by improper motives as that standard is set in Kopera, or the lower standard, that the board's action was unreasonable, arbitrary, and capricious.

ORDER

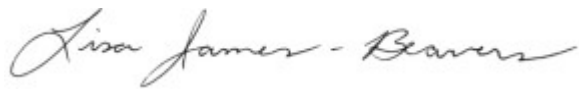
Based on the foregoing, I **ORDER** that the action of the Board in withholding Mrs. Wicks' increment is **AFFIRMED** and her appeal is hereby **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 3, 2018
DATE



LISA JAMES-BEAVERS
Acting Director and Chief
Administrative Law Judge

Date Received at Agency: _____

Date Mailed to Parties: _____

caa

APPENDIX
WITNESSES

For Petitioner:

Margaret Wicks

For Respondent:

Cheri-Ellen Crowl

EXHIBITS

Joint:

- J-1 Joint Stipulation of Facts
- J-2 Total Performance Evaluation of Margaret Wicks for the 2011-2012 School Year, dated June 14, 2012
- J-3 Letter of Reprimand from Cheri-Ellen Crowl, Superintendent of Schools, to Margaret Wicks, dated April 19, 2012
- J-4 Margaret Wicks' Letter of Rebuttal, dated April 30, 2012, sent to Superintendent of Schools Crowl
- J-5 Teacher Evaluation of Margaret Wicks for the 2012-2013 School Year, dated June 20, 2013
- J-6 Letter from Parent Carly Immen to the Board of Education Members, dated June 18, 2013
- J-7 Letter from Cheri-Ellen Crowl, Superintendent of Schools, to Margaret Wicks, dated June 20, 2013
- J-8 Letter of Reprimand and Notice of Board Action from Cheri-Ellen Crowl to Margaret Wicks, dated August 31, 2013
- J-9 Grievance filed on behalf of the Farmingdale Teachers' Association regarding the Decision to Withhold Margaret Wicks' Salary Increment for

the 2013-2014 School Year, dated September 13, 2013

- J-10 Margaret Wicks' Letter of Rebuttal, dated September 17, 2013, in response to the Letter of Reprimand and Notice of Board Action
- J-11 Scope of Negotiations Decision of the Public Employment Relations Commission in the Matter of Farmingdale Board of Education and Farmingdale Teacher Association (PERC NO. 2015-28), dated October 30, 2014

For Petitioner:

- P-1 Annual Evaluation of Margaret Waltsak (4/1/94 – 3/31/95), dated June 8, 1995
- P-2 Annual Evaluation of Margaret Waltsak (9/1/97 – 6/30/98), dated April 13, 1998
- P-3 Annual Evaluation of Margaret Waltsak (9/1/98 to 5/30/99), undated
- P-4 Annual Evaluation of Margaret Waltsak (9/1/00 to 6/30/01), undated
- P-5 Annual Evaluation of Margaret Waltsak (9/1/01 to 6/30/02), dated June 18, 2002
- P-6 Total Performance Evaluation of Margaret Waltsak for the 2003-2004 School Year, dated May 14, 2004 and May 17, 2004
- P-7 Total Performance Evaluation of Margaret Wicks for the 2005-2006 School Year, dated March 23, 2006
- P-8 Total Performance Evaluation of Margaret Wicks for the 2006-2007 School Year, dated May 1, 2007
- P-9 Total Performance Evaluation of Margaret Wicks for the 2007-2008 School Year, dated June 23, 2008
- P-10 Lesson Plans for Margaret Wicks

For Respondent:

- R-1 Complaint filed by Deborah Paredes, dated March 26, 2012