

OAL DKT. NO. EDU 920-04
AGENCY DKT. NO. 19-1/04

BOARD OF EDUCATION OF THE CITY OF	:	
PERTH AMBOY, MIDDLESEX COUNTY,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
NEW JERSEY STATE DEPARTMENT OF	:	DECISION
EDUCATION, DIVISION OF FACILITIES	:	
AND TRANSPORTATION,	:	
	:	
RESPONDENT.	:	
_____	:	

The record and the Initial Decision issued by the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions and respondent’s reply thereto were submitted in accordance with *N.J.A.C.* 1:1-18.4, and were considered by the Commissioner in reaching his decision to remand this matter to the OAL for revision of the Initial Decision, and/or further proceedings as necessary, for the reasons set forth below.¹

Upon a thorough review of the Initial Decision, the Commissioner finds that the ALJ fails to set forth findings of fact and the basis for his legal conclusions, pursuant to the requirements set forth at *N.J.A.C.* 1:1-18.3(c), in order for the Commissioner to determine whether the recommendations in the Initial Decision are sufficiently (and solidly) grounded in fact and law. Moreover, the ALJ does not provide a summary of petitioner’s arguments and the reasons for their rejection. In fact, there is no mention of petitioner’s arguments at all in the

¹Given the deficiencies in the Initial Decision, the Commissioner was unable to conduct the necessary review of the Administrative Law Judge’s (ALJ) findings of fact, legal conclusions and final determination. The Commissioner, therefore, considered the parties’ arguments only in the context of determining whether the ALJ provided a reasonable articulation for his determinations. The parties’ exception arguments on the merits were not considered.

Initial Decision and the only references to petitioner's position in the entire Decision are the following two sentences:

Petitioner, the City of Perth Amboy Board of Education, challenges the State Department of Education's decision denying retroactive funding for an early childhood education facility, pursuant to *N.J.S.A.* 18A:7G-1 (Initial Decision at 1)

and

The Board challenges the Department's denial of its application for retroactive funding for the acquisition of the property. (*Id.* at 3)

Accordingly, in that the Initial Decision does not contain the essential elements for adequate agency review, the Commissioner hereby remands this matter to the OAL for revision of the Initial Decision and/or further proceedings as necessary, consistent with the concerns set forth above.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: February 2, 2005

Date of Mailing: February 3, 2005

² This decision 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.*