

JAMES B. LEDERER, : COMMISSIONER OF EDUCATION
PETITIONER, : DECISION
V. :
BOARD OF EDUCATION OF THE :
BERGEN COUNTY SPECIAL :
SERVICES SCHOOL DISTRICT, :
BERGEN COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner, tenured superintendent, alleged that the Board acted contrary to its own policy and practice in failing to pay him for accrued vacation, sick leave and personal days following his resignation.

ALJ approved settlement of the matter.

Commissioner reversed the initial decision and remanded the matter to OAL for revision of the settlement agreement, as that agreement concurrently resolves both the present petition and tenure charges which are the subject of a separate proceeding and is not an acceptable resolution to the tenure charges. Where all terms of a settlement are deemed material, Commissioner cannot accept settlement in one context while rejecting it in the other.

March 11, 1998

OAL DKT. NO. EDU 5712-95
AGENCY DKT. NO. 152-4/95

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The record of this matter and the initial decision of the Office of Administrative Law in the form of a joint stipulation of settlement have been reviewed.

Upon such review, the Commissioner is compelled to reject the instant agreement, as it concurrently resolves both the present petition and tenure charges which are the subject of a separate proceeding, and is not, for reasons set forth in the Commissioner's decision of even date regarding the latter, an acceptable resolution to the tenure charges. As the settlement is, by its own terms, material in all respects, the Commissioner cannot accept it in one context while rejecting it in the other.

Accordingly, the initial decision of the Office of Administrative Law accepting the proposed settlement is reversed, and this matter remanded to the Office of Administrative Law for revision of the settlement agreement as directed in the Commissioner's decision on the concurrent tenure matter, or for such further proceedings as are warranted in the event settlement in the tenure matter cannot be reached.¹

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

¹ 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.

March 11, 1998