

#12-12 (No OAL Decision Available Online)

OAL DKT. NO. EDU 9191-11
AGENCY DKT. NO. 203-7/11

J.C. and V.M., on behalf of N.C. and Z.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF FORT LEE, BERGEN :
COUNTY, :
RESPONDENT. :
_____ :

The record of this matter, the proposed Consent Order-Settlement and the Initial Decision issued by the Office of Administrative Law pursuant to *N.J.A.C.1:1-19.1*, have been reviewed.

Upon such review, the Commissioner rejects the provisions of the Consent Order, with the following observations. Under Paragraphs 2 through 6 of the parties' Order, reference is made to actions that may have already taken place, thus preceding consideration of the settlement by the Commissioner of Education. The parties are reminded that a settlement of litigation before the Commissioner is not binding until the Commissioner approves same. Additionally, in Paragraph 7 of the Consent Order, the Administrative Law Judge (ALJ) seeks to retain jurisdiction of the matter in the event that a dispute arises regarding the district of residence of the minor children. The Commissioner notes that the ALJ has no power to retain jurisdiction once the Initial Decision is rendered; authority is then within the province of the Commissioner to render the Final Decision. Finally, the Consent Order lacks the requisite signatures of the petitioners and is, therefore, rendered inadequate as an agreement between the parties.

Accordingly, the Commissioner rejects the Initial Decision as the final decision in this case and remands the matter for the purpose of curing these defects.

IT IS SO ORDERED.

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 11, 2012
Date of Mailing: January 12, 2012