

170-01

IN THE MATTER OF THE TENURE :  
HEARING OF GERALD M. MABLI, :  
SCHOOL DISTRICT OF THE BOROUGH : COMMISSIONER OF EDUCATION  
OF DEMAREST, BERGEN COUNTY. : DECISION  
\_\_\_\_\_ :

SYNOPSIS

Petitioning Board filed tenure charges against respondent teacher for conduct unbecoming, alleging destruction of software, violation of policies and procedures, insubordination and disregard of the educational needs of students. Respondent denied the charges.

At the OAL, the parties reached a settlement wherein respondent would be permitted to continue as an employee of the district, on paid leave status, until he reached 25 years of service in the TPAF, at which time he will retire. The parties also agreed that the matter would be referred to the New Jersey State Board of Examiners for action against respondent's certificate as it deems appropriate.

The Commissioner rejected the settlement and remanded the case to the OAL. The Commissioner noted that the proposed agreement does not indicate that the parties considered the potential impact referral of this matter to the State Board of Examiners might have on their agreement should the State Board of Examiners act on respondent's certification during the term of employment contemplated by the agreement. Absent an expression by the parties of their understanding and acceptance of this eventuality, the Commissioner could not approve the settlement.

June 1, 2001

OAL DKT. NO. EDU 7998-00  
AGENCY DKT. NO. 311-9/00

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The record, Stipulation of Settlement and Settlement Agreement and Initial Decision issued by the Office of Administrative Law (OAL), pursuant to *N.J.A.C. 1:1-19.1*, have been reviewed.

Upon such review, the Commissioner cannot approve the settlement as currently configured. Specifically, the terms of this agreement clearly contemplate that it is the parties' intent that respondent be continued as an employee of the District, albeit on leave status, until, at the outside, December 31, 2003, at which time respondent would achieve 25 years of credited service with the TPAF. Although the agreement further recognizes and accepts that, should the Commissioner determine to approve the proposed settlement, he, nonetheless, has a duty to refer this matter to the State Board of Examiners for action, as that body deems appropriate, with respect to revocation of respondent's certificate, it is unclear that the parties have considered what the status of their agreement here would be in the event the State Board of Examiners determined to move forward with revocation during the period covered by the agreement. Absent an indication that this eventuality has been contemplated, understood and accepted by the

parties, the Commissioner cannot approve this otherwise satisfactory settlement agreement due to its facial potential for frustration of its terms.

Accordingly, the proposed settlement is rejected, and the Commissioner remands this matter to the OAL for revision of the document consistent with the concerns herein expressed. Should the parties be unwilling or unable to reach accord on a modified settlement agreement, this matter shall proceed to conclusion on the merits.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: June 1, 2001

Date of Mailing: June 1, 2001