

#193-08

OAL DKT. NO. EDU 1170-06
AGENCY DKT. NO. 375-12/05

BRIAN LUKE, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF : DECISION
THE CITY OF ENGLEWOOD,
BERGEN COUNTY, :
RESPONDENT. :

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

Upon review, the Commissioner observes that neither the file nor the Settlement Agreement contains a copy of the Board of Education’s resolution approving the settlement. Nor is the agreement signed by the Board attorney, who is the Board’s duly authorized representative in litigation.¹ The Commissioner consequently cannot approve the within settlement.

Further, Sections 3, 4, 8 and 14 of the Settlement Agreement recite that the various provisions will take effect upon the execution of the Settlement Agreement and the approval of same by the Board. Thus, these provisions indicate that the parties anticipated that certain conduct would occur on dates 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.

¹ The Board attorney’s acknowledgement that Glenn Garrison is the person who signed the settlement agreement does not satisfy the requirement that the agreement be accompanied by a ratifying Board resolution or executed by the board attorney.

In light of the foregoing, the Commissioner hereby remands this matter to the OAL for revision of the Settlement Agreement to include either the Board attorney's signature or a board resolution approving the settlement and designating Glenn Garrison to sign on behalf of the Board. If the parties are unwilling or unable to reach accord on a modified agreement for submission to the Commissioner, the matter shall proceed to hearing.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 24, 2008

Date of Mailing: April 24, 2008

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.*