

#76-13 (OAL Decision: Not yet available online)

CATHERINE G. HERZOG, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE DEPARTMENT OF : DECISION
EDUCATION, CRIMINAL HISTORY :
REVIEW UNIT, :
RESPONDENT. :

SYNOPSIS

Petitioner – a school bus driver – appealed the Department’s determination to suspend her school bus endorsement pursuant to *N.J.S.A.* 18A:39-29 after an alleged incident in which a kindergarten student was left, asleep, on a school transport van which she drove as a substitute driver on December 20, 2011. Petitioner asserted that she was never given an attendance sheet and had no idea if any of the children normally on the bus were absent. She stated that she looked to the back of the bus and under the seats at the end of her route, but admitted that she did not walk to the back of the bus before completing her trip checklist and exiting. Hearings in the matter were held in the OAL on November 5 and 19, 2012.

The ALJ found, *inter alia*, that: on December 20, 2011, petitioner failed to discover that a child remained on her bus, notwithstanding her obligation under *N.J.S.A.* 18A:39-29 to properly inspect the bus at the end of her route; petitioner failed to make a visual inspection of the bus at the end of her route in a manner that would ensure that she would see a child who was still on her bus; petitioner’s argument that there was no roster of student names nor head count available to her does not excuse petitioner from her obligation under *N.J.S.A.* 18A:39-28 to conduct a thorough visual inspection to check for any student remaining on the bus; and the penalty of suspension of the school bus “S” endorsement on her driver’s license is mandatory under *N.J.S.A.* 18A:39-29. Accordingly, the ALJ concluded that the petitioner’s six month suspension for leaving a child on the bus should be affirmed.

Upon full review and consideration of the record, Commissioner concurred with the findings and determinations of the ALJ. Accordingly, the petition was dismissed and the respondent was directed to notify the Motor Vehicle Commission of its obligation to suspend petitioner’s school bus endorsement pursuant to *N.J.S.A.* 18A:39-28 et seq., and to notify petitioner’s employer that she is ineligible for the period of suspension for continued employment as a school bus driver.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

February 26, 2013

OAL DKT. NO. EDU 2114-12
AGENCY DKT. NO. 9-1/12

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner adopts the Initial Decision as the final decision in this matter – for the reasons set forth by the Administrative Law Judge. Accordingly, the petition of appeal is hereby dismissed. Respondent is directed to notify the Motor Vehicle Commission of its obligation pursuant to *N.J.S.A. 18A:39-28 et seq.* to suspend petitioner’s school bus “S” endorsement on her driver’s license for six months, and to notify petitioner’s employer that she is ineligible – for the period of suspension – to continue employment as a school bus driver.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 26, 2013

Date of Mailing: February 26, 2013

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).