

#234-15 (OAL Decision: Not yet available online)

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| ROBERT VICKERY, | : | |
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| PETITIONER, | : | |
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| V. | : | COMMISSIONER OF EDUCATION |
| | : | |
| NEW JERSEY DEPARTMENT OF | : | DECISION |
| EDUCATION, OFFICE OF CRIMINAL, | : | |
| HISTORY REVIEW UNIT, | : | |
| | : | |
| RESPONDENT. | : | |
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SYNOPSIS

Petitioner – a school bus driver – appealed the respondent Department’s determination to suspend his school bus endorsement pursuant to *N.J.S.A.* 18A:39-29 after incident in which V.Z. – a high school foreign exchange student, with limited English language skills – fell asleep on a school bus driven by petitioner, missed his bus stop, and was driven to the bus yard before petitioner discovered that there was still a student on the bus. The Department contended that petitioner failed to meet his obligation to inspect his bus at the end of his route to ensure that no students remained on board, as required under *N.J.S.A.* 18A:39-26 *et seq.* Petitioner asserted that his conduct was at all times compliant with statutory requirements because he did not leave the child alone on the bus and conducted a visual inspection upon his return to the bus yard, which was the end of his route. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; although the statute could be subject to differing interpretations, prior decisions have made clear that, in the Commissioner’s view, the law requires that an inspection be conducted when the last child is dropped off during the route – not after the vehicle has finished its drop-offs and returned to the garage; petitioner failed to inspect his bus at the end of the route, thereby leaving a student aboard until he was discovered at the bus lot; and *N.J.S.A.* 18A:39-29 mandates a six-month suspension of the school bus “S” endorsement on the petitioner’s drivers license. Accordingly, the ALJ granted the Department’s motion for summary decision and dismissed the petition.

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 he is ineligible for the period of suspension for continued employment as a school bus driver.

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.

July 9, 2015

OAL DKT. NO. EDU 83-15
AGENCY DKT. NO. 338-11/14

ROBERT VICKERY, :
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 PETITIONER, :
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 V. : COMMISSIONER OF EDUCATION
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 NEW JERSEY DEPARTMENT OF : DECISION
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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge that the Office of Criminal History Review Unit is entitled to summary decision. Accordingly, the petition of appeal is 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 endorsement for the mandatory six-month period, and to notify petitioner's employer that he is ineligible for the period of suspension for continued employment as a school bus driver.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: July 9, 2015

Date of Mailing: July 9, 2015

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