

**New Jersey Commissioner of Education  
Final Decision**

Dana Ann Burseth,

Petitioner,

v.

New Jersey Department of Education, Office of Student  
Protection,

Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge that petitioner violated *N.J.S.A. 18A:39-28* when she failed to conduct a visual inspection of her school bus at the end of her transportation route and, as a result, a child remained on board at the end of the route.

Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed. Pursuant to *N.J.S.A. 18A:39-29(a)*, petitioner's "S" endorsement shall be suspended for six months from the date of this decision. Respondent is directed to notify the Motor Vehicle Commission of its obligation to suspend petitioner's "S" endorsement, and to notify petitioner's employer that she is ineligible during the period of suspension for continued employment as a school bus driver.

IT IS SO ORDERED.<sup>1</sup>

  
COMMISSIONER OF EDUCATION

Date of Decision: July 11, 2025  
Date of Mailing: July 14, 2025

---

<sup>1</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**MOTION TO DISMISS**

OAL DKT. NO. EDU 00518-25

AGENCY REF. NO. 395-12/24

**DANA ANN BURSETH,**

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF EDUCATION,**

**OFFICE OF STUDENT PROTECTION,**

Respondent.

---

**Dana Ann Burseth**, petitioner, pro se

**David Kalisky**, Deputy Attorney General, for respondent (Matthew J. Platkin,  
Attorney General of New Jersey, attorney)

Record Closed: March 26, 2025

Decided: June 9, 2025

BEFORE **JEFFREY N. RABIN**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner, Dana Ann Burseth, appeals the six-month suspension as a school bus driver imposed on her by respondent, the New Jersey Department of Education (NJDOE),

on December 4, 2024, for leaving a child on her bus despite her responsibility to conduct an inspection of her bus at the end of her route.

Petitioner filed a due process petition with the NJDOE, Office of Controversies and Disputes, on or about December 6, 2024, which was transmitted to the Office of Administrative Law (OAL) and filed on January 9, 2025, as a contested matter. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23. Respondent filed a Motion to Dismiss in Lieu of an Answer on or about January 6, 2025. Pursuant to a telephone conference on February 27, 2025, petitioner filed a responsive letter-brief on March 25, 2025. A telephone conference was held on March 26, 2025, and the record closed.

### **FINDINGS OF FACT**

Based on the petitioner's appeal petition, respondent's motion and brief, and petitioner's letter-brief, I **FIND** the following to be the undisputed facts:

1. Petitioner was a school bus driver for DAG Transportation, serving Lakewood School District. On November 21, 2024, a minor student was left on petitioner's bus. Petitioner did not conduct a visual inspection of her bus after completion of her bus route. Petitioner's bus aide discovered the child asleep on a bus seat fifteen minutes after completion of petitioner's bus route.

### **LEGAL ANALYSIS**

The issue is whether petitioner's due process appeal should be summarily dismissed.

In petitioner's undated letter-brief received March 25, 2025, petitioner admitted to leaving a child on her bus after completion of her bus route. She also in essence admitted to not conducting a thorough visual inspection of the bus, stating that she "looked in my mirror and did not see any other students so I headed home, little did I know the student was laying flat on the seat sleeping. My bus aide made me aware after 15 minutes of

leaving the last stop because he saw her foot.” Petitioner further made it clear that she was not contesting the facts by writing, “The video footage of said incident is indisputable, and I would not risk further penalty by attempting to perpetrate a fraud on this Court or convince you otherwise.” In her appeal filing, petitioner stated that she “take[s] all responsibility for [her] mistake.” (Petition, at 2.)

Petitioner did not claim that there were any genuine issues of material fact for which a full hearing would be required. Petitioner did not challenge any of the legal arguments made by respondent. Rather, petitioner blamed her error on driving a “spare bus,” which was wider than her regular bus, and driving in the dark that evening, in the rain. Petitioner asked this tribunal to consider these undocumented claims as mitigating factors and protested that the controlling statute was flawed for not considering mitigating factors in imposing a mandatory six-month suspension for a first violation.

Respondent properly argued, however, that petitioner failed to contest the essential elements of the violations and failed to state a cause of action for which relief could be granted.

Petitioner admitted to leaving a child on her bus and failing to complete a visual inspection of the bus. She has apologized for her error, and claimed to have learned from the experience. Petitioner downplayed the seriousness of her violation by stating that the student was never truly left alone and was not harmed by the incident.

In comparing N.J.A.C. 6A:3-1.10 with R. 4:6-2(e), it is clear that the within matter is “limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989). It is also clear that a complaint may be dismissed for failure to state a claim if the complainant fails to set forth a legal basis entitling them to relief. Hoffman v. Hampshire Labs, Inc., 405 N.J. Super. 105 (App. Div. 2009).

Petitioner did not challenge the allegations in this case: that she left a child on her bus, and that she only glanced at her rearview mirror without conducting a full visual inspection of her bus at the end of her route, which would have revealed a child sleeping

on the bus at the time petitioner was already heading home. The controlling statutes are clear: N.J.S.A. 18A:39-28 requires a school bus driver to visually inspect the school bus at the end of every route to ensure that no child remains on the bus; N.J.S.A. 18A:39-29 states that where a school bus driver has been found to have left a pupil on the bus at the end of a route, the driver's bus license shall be suspended for six months for a first offense. Petitioner decried that there is a mandatory suspension for a first violation of the controlling statute, but she provided no legal arguments for why the statute would not apply to her or why a mandatory penalty should not apply to her when she has admitted to the violation.

Petitioner has not challenged the constitutionality of these controlling statutes. Further, it is the New Jersey Appellate Division, not the OAL, which is the proper venue for a petitioner to challenge the validity of a New Jersey statute or regulation. R. 2:2-3(a)(2). In accepting the validity of N.J.S.A. 18A:39-29, it appears clear on its surface that a six-month penalty for a first incident of leaving a child on a bus is mandatory, by its use of the term "shall." There is no language set forth therein for consideration of mitigating factors, and no consideration of whether the child left behind was in fact injured. N.J.A.C. 6A:3-12.1 sets forth what a petitioner may challenge: whether in fact a child was left on the bus; whether this was a second offense committed by the petitioner; whether the child was harmed as a result of a foreseeable danger; or whether the petitioner's actions constituted gross negligence. However, petitioner was not charged with harming the child in question, nor charged with a second offense or gross negligence. The only violation petitioner was charged with was leaving a child on her bus, which she has admitted to committing.

As petitioner has admitted to the only violation she has been charged with, and the penalty for a first incident of leaving a child on a bus is a mandatory six-month suspension from driving a school bus, without consideration of mitigating factors, I **CONCLUDE** that there are no factual or legal issues that require a full due process hearing in this matter. I therefore **CONCLUDE** that petitioner failed to state a cause of action for which relief could be granted, and, accordingly, I **CONCLUDE** that respondent's motion to dismiss must be granted and that petitioner's appeal must be dismissed.

**ORDER**

Respondent's Motion to Dismiss in Lieu of an Answer is hereby **GRANTED**, and the within appeal is **DISMISSED**.


I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to [ControversiesDisputesFilings@doe.nj.gov](mailto:ControversiesDisputesFilings@doe.nj.gov) or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

June 9, 2025

DATE

  
\_\_\_\_\_  
**JEFFREY N. RABIN, ALJ**

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

JNR/cab

**APPENDIX**

**Briefs/Exhibits**

**For Petitioner:**

Petition of Appeal

Letter-brief received March 25, 2025

**For Respondent:**

Motion and Brief, dated January 6, 2025