

506-25
OAL Dkt. No. EDU 06614-25
Agency Dkt. No. 66-3/25

New Jersey Commissioner of Education
Final Decision

Paolo Racli,

Petitioner,

v.

Patrick J. Fletcher, Executive County
Superintendent, Bergen County,

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.

In this matter, petitioner challenges respondent's decision upholding the Closter School District's denial of petitioner's request for free bus transportation for his minor child, the denial of his request to declare the walking route unsafe, and the denial of his request for recalculation of the distance between his home and the minor child's school by way of an alternate route other than the shortest route along public roadways or public walkways.

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that respondent's motion to dismiss the petition for failure to state a claim must be granted. Districts are required to provide free bus transportation to elementary school students who live more than two miles from the school of attendance. *N.J.S.A. 18A:39-1, N.J.A.C. 6A:27-1.3(a)(1)(i)*.

Here, the record reflects that the distance between petitioner's home and his minor child's school is just under the two-mile threshold.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: October 24, 2025
Date of Mailing: October 27, 2025

¹ 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 GRANTING
RESPONDENT'S MOTION TO
DISMISS

OAL DKT. NO.: EDU 06614-25

AGENCY DKT. NO.: 66-3/25

PAOLO RACLI,

Petitioner,

v.

PATRICK J. FLETCHER,

EXECUTIVE COUNTY SUPERINTENDENT,

BERGEN COUNTY.

Respondent.

Paolo Racli, petitioner, pro se

David Kalinsky, Deputy Attorney General, for respondent (Matthew J. Platkin,
Attorney General of New Jersey, attorneys)

Record Closed: May 30, 2025

Decided: August 11, 2025

BEFORE **WILLIAM COURTNEY**, ALJ:

PROCEDURAL HISTORY

Respondent Patrick J. Fletcher, Executive County Superintendent of Bergen County (“ECS”), filed a motion to dismiss petitioner Paolo Racli’s petition seeking to recalculate the distance between petitioner’s residence and his child’s school, Hillside Elementary School, using an alternate route which would result in the school having to provide mandatory busing for his child. Petitioner filed an opposition to the motion, asserting that respondent mischaracterized or misinterpreted N.J.A.C. 6A:27-1.3(a)(1)(ii) and N.J.S.A. 18A:39-1. Respondent replied, incorporating his argument from his motion to dismiss the petition for failure to state a claim.

FACTUAL BACKGROUND

1. Hillside Elementary School falls under the purview of Closter School District. Respondent’s Reply to Petitioner’s Opposition, p. 2.
2. “Closter hired the Boswell Engineering company to conduct a survey of the walking route distance between [petitioner’s] home and Hillside [Elementary School].” Respondent’s Letter Brief in Support of Motion to Dismiss, p. 2. Boswell calculated the distance between petitioner’s doorway and Hillside Elementary’s doorway to be 1.95 miles. Id.
3. Petitioner does not dispute the measurement Boswell calculated. Petitioner’s Opposition to Respondent’s Motion to Dismiss, p. 2. However, petitioner requests that the distance be recalculated using the nearest traffic light-regulated crosswalk at the intersection of Knickerbocker Road (a county road) and High Street, although Petitioner acknowledges that doing so would increase the route distance to go beyond two miles, thus making his child remote and requiring busing. Id.
4. Petitioner maintains that the route the survey actually used to calculate the distance includes a busy intersection between Knickerbocker Road and Cedar Lane. Id. Petitioner states that the intersection lacks a crosswalk and is regulated by a blinking yellow light and a posted speed limit of 40 miles per hour, which petitioner further contends that cars and trucks often exceed. Id.

5. Petitioner argues that the route cannot be considered a “public walkway” under N.J.A.C. 6A:27-1.3(a)(1)(ii) for purposes of elementary school transportation due to safety concerns. Id. at p.3. Petitioner claims that the intent of both N.J.A.C. 6A:27-1.3(a)(1)(ii) and N.J.S.A. 18A:39-1.5 are to ensure a safe route for access to education. Id. at p. 3-4.
6. Respondent maintains that Closter has never provided courtesy busing and thus has not adopted a hazardous route policy that requires it to consider hazardous routes that remote pupils may have to take and, accordingly, no such policy applies here that would require busing for petitioner’s child. Respondent’s Reply, p. 3-4.¹
7. Petitioner asserts that, irrespective of Closter’s lack of courtesy busing, which would require a conjunctive hazardous route policy, the school district has a duty to ensure that the route used to calculate remoteness is safe and accessible. Petitioner’s Opposition, p. 3-4.

LEGAL ANALYSIS

The standards for granting or denying a motion to dismiss for failure to state a claim in an administrative proceeding are identical to those governing similar motions in the Superior Court. Compare N.J.A.C. 6A:3-1.10 with R. 4:6-2(e); See also Sloan v. Klagholtz, 342 N.J. Super. 385, 393-94 (App. Div., 2001).

When reviewing a motion to dismiss pursuant to R. 4:6-2(e), the court’s inquiry is “limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” Printing Mart - Morristown v. Sharp Electronics Corp., 116 N.J. 739, 746 (1989). The petitioner is required to plead facts and give detail of a cause of action. Once filed, “a complaint may be dismissed for failure to state a claim if it fails to articulate a legal basis entitling plaintiff to relief.” Hoffman v. Hampshire Labs, Inc. 405 N.J. Super.105 (App. Div., 2009) quoting Sickles v. Cabot Corp., 379 N.J. Super. 100 (App. Div. 2005).

¹ Petitioner has not disputed that Closter does not provide courtesy busing.

While a complaint may be entitled to liberal reading, it must allege facts that give rise to a legal cause of action; mere conclusions cannot suffice. Pressler and Venero, N.J. Court Rules, cmt.1 on R. 4-5-2 (2022) citing Glass v. Suburban Restoration Co., 317 N.J. Super. 574, 582 (App. Div., 1998). Although the standard is a “generous one” for a plaintiff, a pleading will be dismissed if it states no basis for relief and discovery will not provide one. Green v. Morgan Props., 215 N.J. 431, 451 (2011); Rezem Family Associates, L.P., v. Borough of Millstone, 423 N.J. Super. 103, 113 (App. Div., 2011).² A party cannot satisfy its obligation to identify a cognizable claim with conclusory or vague allegations. Delbridge v. Office of the Public Defender, 238 N.J. Super. 288, 314 (App. Div., 1989).

The issue presented here is whether the Closter School District Board is required to provide petitioner’s minor child with busing to and from school. I **FIND** that it is not. Absent a school board offering courtesy busing, they are not required to provide busing for their students even if the route the child must take to school is hazardous.

The transportation of pupils to and from school is governed by N.J.S.A. 18A:39-1 to -36. N.J.S.A. 18A:39-1 requires schools to provide transportation for “elementary school pupils who live more than two miles from their public school of attendance” Additionally, under N.J.A.C. 6A:27-1.3, “school boards shall provide transportation to public school students who reside remote from their assigned school of attendance” and N.J.A.C. 6A:27-1.3(a)(1)(i) defines “remote” as “beyond two miles for elementary school students” N.J.A.C. 6A:27-1.3(a)(1)(ii) further states as follows:

Distance shall be measured using the shortest route along public roadways or public walkways between the entrance of the student’s residence nearest the public roadway or public walkway and the nearest public entrance of the school the student attends.

Determining what constitutes a public roadway or walkway is a two-prong inquiry. First, a public roadway or walkway must allow for lawful passage. “Public” “refers not strictly to ownership, but to commonality of usage, [and] freedom of access.” Board of Education of Township of Wayne v. Kraft, 274 N.J. Super. 211, 222 (App. Div. 1994) (rev’d on other grounds) (quoting Mangieri v. Board of Education, 1991 S.L.D. 69 (Comm’r of Educ.

1991). In Mangieri, the Commissioner found that a pedestrian crossing built over railroad tracks constituted a public walkway for purposes of measuring remoteness when the owner of the railroad granted the school district an easement across the tracks and the crossing was “open to any person desiring access to school property at any time when that property is open to lawful use; its physical construction [was] sturdy and permanent; [and] its maintenance and safe operation [were] the responsibility of the borough and school district.” Id. The Commissioner concluded that “there [was] nothing about the disputed crossing that would preclude its acceptance as a lawful means of providing convenience of access to the school building.” Id. Second, a public roadway or walkway must allow for “a reasonable expectation of safe passage.” Id. In Mangieri, the pedestrian crossing was deemed safe because it was “for pedestrian use only,” “was only open during school hours, was monitored by a crossing guard, and had a gate that was kept locked when the crossing was not in use.” Id.

However, school districts are not required to provide busing to non-remote pupils. Potter, et. al. v. Board of Education of the Township of Wayne, 1993 N.J. AGEN LEXIS 147 (Jan. 21, 1993). Rather, districts have discretion as to whether they would like to provide courtesy busing to pupils living non-remote. G.S. and C.S. on Behalf of Minor Child, D.S. v. Township of Holland Board of Education, Hunterdon County, EDU 10265-15, Initial Decision (April 17, 2020), adopted, Comm’r (July 16, 2020). Additionally, “[a] school district that provides courtesy busing services shall adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes.” N.J.S.A. 18A:39-1.5(a). Finally, as applicable to hazardous route policies that must be adopted by schools that offer courtesy busing, “although school boards ‘have wide discretion to promulgate pupil transportation policies, including school bus routes and stops, they may not discriminate or act in a manner that is arbitrary, capricious or unreasonable.’” G.S. and C.S. on Behalf of Minor Child, D.S. (quoting Peary v. Board of Education of the Township of Barnegat, 93 N.J.A.R.2d (EDU) 798). See also G.S. and C.S. on Behalf of Minor Child, D.S., EDU 10265-15, Final Decision (July 16, 2020) <https://njlaw.rutgers.edu/collections/oal/final/edu10265-15_2.pdf>, (stating that boards that choose to provide courtesy busing for hazardous routes must equitably apply the policy implemented for it: “It is discriminatory for the Board to require that a remote student

must walk along a hazardous route, while a student who receives courtesy busing does not.”).

In Potter, the petitioners argued that the board acted in an arbitrary, capricious, and unreasonable manner in determining that the minor students lived nonremote to the school when the board’s calculations included a route that put the students at unreasonable risk of serious injury due to dangerous roadways, including Turnpike roads. The ALJ granted summary decision to the board, concluding that “[t]he law is clear that petitioners who live within two miles of their children’s school are not entitled to busing under N.J.S.A. 18A:39-1 and N.J.A.C. 6:21-1.3 even if roadway danger be assumed.” Id. The Commissioner adopted the ALJ’s decision. Id. Additionally, in L.R. on Behalf of E.R. v. Middletown Township Board of Education, EDS 10263-09, Initial Decision (Oct. 5, 2009), adopted, Comm’r (Oct. 15, 2009) <https://njlaw.rutgers.edu/collections/oal/html/initial/eds10263-09_1.html>, the school’s Director of Student Services testified that the school had a firm policy of no courtesy busing which had never been waived or disregarded, and the ALJ affirmed the board’s decision to deny courtesy busing to petitioner’s minor child from the child’s daycare to the preschool, determining that petitioner had not established that the board’s “strict adherence to [the] policy . . . [was] arbitrary, capricious, or unreasonable” because “no evidence [was] presented . . . that the school board ha[d] on other occasions diverted from its strict policy . . . that it will provide only home-to-school transport.” ²

Here, respondent hired the Boswell Engineering company, a neutral third party, to calculate the distance between petitioner’s door and Hillside Elementary’s door using public pathways as per N.J.A.C. 6A:27-1.3(a)(1)(ii). Boswell determined that the distance between petitioner’s home and the school amounted to 1.95 miles, on which the school

² See also G.S. and C.S. on Behalf of Minor Child, D.S. v. Township of Holland Board of Education, *supra*, discussing Mandaglio v. Board of Education of the Township of Mendham, 1 990 S.L.D. 1380: “[I]n [Mandaglio], the petitioning parents failed to show that the school board abused its discretion in relocating their children’s bus stop from a cul-de-sac to a spot that required the children to walk three-quarters of a mile along a fifty-mile-per-hour road without sidewalks because the board’s ‘policy prohibiting a school bus from turning around in a cul-de-sac’ due ‘to the inherent dangers of backing up a school bus on a cul-de-sac’ was not unreasonable and because ‘the policy was applied in a nondiscriminatory and consistent manner.’”

board properly relied in determining that petitioner's child lived nonremote from the school and thus did not require busing. Petitioners claim that the intersection between Knickerbocker Road and Cedar Lane presents a hazard such that the school should recalculate remoteness by using an alternate route using the intersection between Knickerbocker Road and High Street instead. Doing so places his child in remote status as it would result in her residing over 2 miles from the school and would thus require that the school provide busing for her. Petitioner further argues that using the lack of safety at the intersection with Cedar Lane is not within the spirit of the relevant regulation and law, but the law is clear that hazardous routes do not require a school to provide busing to a nonremote pupil when that school does not offer courtesy busing.

Petitioner's argument that the school board must recalculate the distance using an alternative route, which would ultimately lead to the school being required to provide busing for his child, is unfounded because, as respondent maintains, Closter has never offered courtesy busing and therefore does not need to have an implemented busing policy regarding hazardous routes. Moreover, petitioner has not disputed that Closter does not offer courtesy busing. It follows that there is no busing policy or exception that petitioner can enforce or compel. As Potter clarifies, respondent is not required to provide busing even if the route is hazardous because petitioner's child lives non-remote from the school. Additionally, like in L.R. on Behalf of E.R., since it does not appear the Closter schools have ever provided courtesy busing, or disregarded or waived their no-courtesy-busing policy, their decision to calculate remoteness using the intersection between Knickerbocker Road and Cedar Lane is unlikely to be arbitrary, capricious, or unreasonable. Petitioner has not offered any facts disputing or showing that Closter had a courtesy busing policy, or that it has ever waived its no-courtesy-busing policy. Accordingly, petitioner's claim is without merit.

CONCLUSION

Where a pupil lives non-remote from a school and the district does not offer courtesy busing, the school is not obligated to provide busing to the nonremote pupil even if the pupil must take a hazardous route to school. Courtesy busing is voluntary for school

districts to offer, and absent such busing, a school district need not offer busing for hazardous routes. Respondent maintains – and Petitioner does not dispute – that Closter has never offered courtesy busing. Accordingly, I **CONCLUDE** that the Petition is without merit and must be dismissed.

ORDER

For the reasons stated above,

IT IS on this 11th day of August 2025, **ORDERED** that respondent's Motion to Dismiss is **GRANTED** and this matter is **DSMISSED**.

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

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the 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 **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to 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.

A handwritten signature in cursive script that reads "William Courtney". The signature is written in black ink and is positioned above a horizontal line.

August 11, 2025

DATE

WILLIAM COURTNEY, ALJ

Date Received at Agency:

Date Mailed to Parties:

WJC/db

Moving Papers Considered

1. Respondent's Notice of Motion to dismiss dated April 14, 2025
2. Respondent's Brief in support of Motion to Dismiss dated April 14, 2025
3. Petitioner's Brief in Opposition to Motion to Dismiss dated May 15, 2025
4. Respondent's Reply Brief dated May 30, 2025