

125-26
OAL Dkt. No. EDU 10343-25
Agency Dkt. No. 136-5/25

**New Jersey Commissioner of Education
Final Decision**

Elvira Camacho, 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. This was petitioner's second violation of the statute.

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 revoked. Respondent is directed to notify the Motor Vehicle Commission of its obligation to revoke petitioner's "S" endorsement, and to notify petitioner's employer that she is ineligible for continued employment as a school bus driver.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: April 7, 2026
Date of Mailing: April 7, 2026

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

SUMMARY DECISION

OAL DKT. NO. EDU 10343-25

AGENCY DKT. NO. 136-5/25

ELVIRA CAMACHO,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, OFFICE OF STUDENT
PROTECTION,**

Respondent.

Elvira Camacho, petitioner, pro se

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

Record Closed: January 5, 2026

Decided: February 5, 2026

BEFORE **EDWARD J. DELANOY, JR.**, Deputy Director and ALAJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Elvira Camacho (Camacho), challenges the revocation of her bus driver “S” endorsement. The revocation is due to petitioner’s alleged second violation of

N.J.S.A. 18A:39-28, et seq., in leaving a child on a school bus assigned to her on February 28, 2025. The Office of Student Protection (OSP) determined that this was petitioner's second offense of this kind and accordingly imposed a penalty of revocation of her "S" endorsement to operate a school bus.

Petitioner filed her Petition of Appeal with the Department on April 8, 2025. On June 6 2025, the Department filed a motion to dismiss in lieu of an answer, pursuant to N.J.A.C. 6A:3-1.10.¹ The matter was transferred to the Office of Administrative Law (OAL), where it was filed on June 9, 2025, as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On October 30, 2025, a telephone conference was held with the parties. Petitioner acknowledged that she would rely on her statement in the Petition of Appeal. This tribunal having received no other response from respondent to petitioner's motion to dismiss, the record closed on January 5, 2026.

FINDINGS OF FACT

Camacho is employed as a school bus driver for M&T School Bus, LLC, a school bus company that services the Somerset County School District. (See Report of a Student Left Unattended on the School Bus, dated February 28, 2025, attached as Pet.'s Exhibit A.) On February 28, 2025, a child was left on a school bus driven by petitioner. Petitioner claims that her assistant "failed to do her due diligence in making sure no children were still on the bus" and that she "regret[s] not taking extra measures [her]self" to ensure that no child remained on the bus. (Id. at 10.) She also admits to an "unfortunate first incident" when she was a school bus driver with no assistant and a pupil remained on her bus after the last stop of her transportation route. (Ibid.)

LEGAL ANALYSIS

The School Bus Safety Act, N.J.S.A. 18A:39-26 to -33, requires that the school-bus driver "shall visually inspect the school bus to which he is assigned at the end of the

¹ The Department filed a Motion to Dismiss in Lieu of an Answer with the Commissioner of Education under N.J.A.C. 6A:3-1.10.

transportation route to determine that no pupil has been left on the bus.” N.J.S.A. 18A:39-28. A violation of N.J.S.A. 18A:39-28 results in a mandatory penalty. N.J.S.A. 18A:39-29. The statute dictates that “[i]n the event that, after notice and opportunity to be heard, a school bus driver is found to have left a pupil on the school bus at the end of his route, his school bus endorsement shall be: (a) suspended for six months, for a first offense” N.J.S.A. 18A:39-29(a). The statute also dictates that for a second violation, revocation of the school bus endorsement is required. N.J.S.A. 18A:39-29(b).

The issue in this case is whether the Department established by a preponderance of the credible evidence that Camacho failed to comply with the statutory requirement that the driver “shall visually inspect the school bus to which he is assigned at the end of the transportation route to determine that no pupil has been left on the bus.” N.J.S.A. 18A:39-28. Camacho has admitted that she did not visually inspect the bus when she ended her transportation route, and claims that her assistant failed to do her due diligence in making sure no children were left on the bus.

The statute is unambiguous in its requirement that the driver visually inspect the bus, and Camacho did not do so, in violation of N.J.S.A. 18A:39-28. Since Camacho failed to do so, she violated N.J.S.A. 18A: 39-28. Camacho’s attempt to deflect blame onto her assistant is not relevant. The statute specifically requires drivers, not assistants, to perform the inspection. N.J.S.A. 18A:39-28. As such, Camacho’s statement regarding the assistant is both an admission that the student was left on the bus, and that she failed to perform a final inspection that day, in violation of N.J.S.A. 18A:39-28. Because of the safety implication of such a violation, a mandatory penalty exists in the event that the OSP determines that a child was indeed left behind. Garner v. N.J. Dep’t of Educ., Crim. Hist. Rev. Unit, 2009 N.J. AGEN LEXIS 173 (April 3, 2009), adopted, Comm’r (May 1, 2009), <https://www.nj.gov/education/legal/>. Thus, “[i]n the event that . . . a school bus driver is found to have left a pupil on the school bus . . . , his school bus endorsement shall be: (a) suspended for six months, for a first offense” N.J.S.A. 18A:39-29(a), and (b) that for a second violation, revocation of the school bus endorsement is required. N.J.S.A. 18A:39-29(b).

Here, since Camacho was in clear violation of the statute, the penalty imposed is mandatory, and there is no discretion to impose anything less than a revocation of her “S” endorsement. Where the violation has been established, no circumstances of the event or of the driver may be considered in determining the penalty. Garner, 2009 N.J. AGEN LEXIS 173 at *5–6.

Under N.J.A.C. 6A:3-1.10, the Commissioner may dismiss a petition of appeal if it fails to advance a cause of action even if the petitioner’s factual allegations are accepted as true. The standard governing a motion to dismiss for failure to state a claim in the administrative context is identical to that governing a similar motion in the Superior Court. Compare N.J.A.C. 6A:3-1.10 with Rule 4:6-2(e); see also Sloan ex rel. Sloan v. Klagholtz, 342 N.J. Super. 385, 393-94 (App. Div. 2001). Under that standard, the inquiry 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) (internal citation omitted). A plaintiff is required to plead the facts and give detail of a cause of action. Id. at 768. As such, “[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, 112 (App. Div. 2009) (quoting Sickles v. Cabot Corp., 379 N.J. Super 100, 106 (App. Div. 2005)). If the complaint states no basis for legal relief, and discovery would not supply one, dismissal is the appropriate remedy. Banco Popular, 184 N.J. at 166.

I **CONCLUDE** that the evidence presented by the parties does not establish any material facts in dispute. Given the limited facts that must be established to support a violation of the duty imposed by the Legislature on a school-bus driver to properly inspect the bus at the end of a route to assure that no child is left on the bus, the arguments offered by the Department amply support dismissal in its favor. And given the mandatory nature of the penalty for a second-time violator of the mandate, revocation is the only outcome where the violation is proven. N.J.S.A. 18A:39-29(b). The Department’s motion for dismissal must be **GRANTED**.

ORDER

It is hereby **ORDERED** that the Department’s motion for dismissal is hereby **GRANTED**, and it is further **ORDERED** that the petitioner’s “S” endorsement shall be revoked.

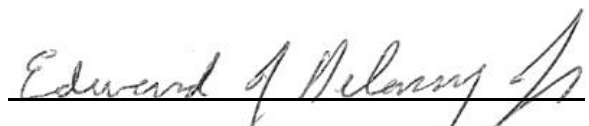
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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.

February 5, 2026 _____

DATE



EDWARD J. DELANOY, JR. ALAJ

Date Received at Agency: _____

Date Mailed to Parties: _____

EJD/cb