

131-26
OAL Dkt. No. EDU 16131-25
Agency Dkt. No. 272-8/25

New Jersey Commissioner of Education
Final Decision

Krapf School Bus,

Petitioner,

v.

Board of Education of the Township of Frankford,
Sussex 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.

Upon review, the Commissioner concurs with the Administrative Law Judge that the Frankford Board of Education properly awarded its transportation contract to the lowest responsive and responsible bidder.

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: April 15, 2026
Date of Mailing: April 15, 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 16131-25

AGENCY DKT. 272-8/25

KRAPF SCHOOL BUS,

Petitioner,

v.

BOARD OF EDUCATION OF THE TOWNSHIP

OF FRANKFORD, SUSSEX COUNTY,

Respondent.

Richard C. Kelly, Esq., appearing for petitioner

Patrick F. Carrigg, Esq., (Lenox Law Firm) appearing for respondent

Record Closed: December 30, 2025

Decided: February 9, 2026

BEFORE **AURELIO VINCITORE**, ALJ:

STATEMENT OF THE CASE

On July 29, 2025, First Student, Inc., submitted a bid for student transportation that did not include a Chapter 271 Political Contribution Disclosure Form (Form 271). First

Student, Inc., however, submitted the form more than ten days before it was awarded the contract. Does the failure to include Form 271 render its bid non-responsive? No. Under N.J.S.A. 19:44-20.26, a successful bidder may submit Form 271 ten days before entering into a contract.

PROCEDURAL HISTORY

On July 15, 2025, respondent, Frankford Township Board of Education (Frankford), publicly advertised the solicitation of sealed bids to provide student transportation services to and from school for the 2025-2026 school year.

On July 29, 2025, Frankford opened the bids and announced that First Student, Inc. (First Student) was the lowest responsive and responsible bidder.

On August 15, 2025, petitioner, Krapf School Bus, the second lowest responsive and responsible bidder, filed an appeal with the Department of Education, Office of Controversies and Disputes.

On August 25, 2025, Frankford awarded the contract to First Student.

On September 16, 2025, the Department of Education transmitted the appeal to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On October 21, 2025, the parties appeared for a pre-hearing teleconference and requested a decision in this case through a motion for summary decision.

On November 25, 2025, Krapf filed its motion for summary decision. On December 19, 2025, Frankford BOE filed its opposition to Krapf's motion for summary decision and its cross-motion for summary decision. On December 30, 2025, Krapf filed its response.

FINDINGS OF FACT

Based on the documents submitted in support of and in opposition to the motion for summary decision, I **FIND** the following as **FACT** for purposes of this motion only:

1. On July 15, 2025, Frankford BOE publicly advertised a solicitation seeking sealed bids for student transportation services for school year 2025-2026.
2. On July 29, 2025, Frankford received three bids in response to the bid solicitation, opened those bids, and read them out loud at the board of education meeting. The parties were also given the opportunity to inspect the bids that were submitted.
3. First Student was the lowest responsive and responsible bidder. First Student, however, did not submit Form 271 with its bid. Form 271 is the form that lists all political contributions.
4. Krapf was the second lowest responsive and responsible bidder and did include Form 271 with its bid package.
5. On August 25, 2025, more than ten days before Frankford awarded the student transportation contract to First Student, Inc., First Student provided Form 271 to Frankford.
6. First Student did not make any reportable political contributions as listed on their Form 271 disclosure.

CONCLUSIONS OF LAW

A party may move for summary decision upon any or all substantive issues in a contested case. N.J.A.C. 1:1-12.5(a). The motion for summary decision must be served with briefs and may be served with supporting affidavits. Under N.J.A.C. 1:1-12.5(b), “[t]he decision sought may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.”

Publicly advertised contracts are exempt from Form 271 disclosure requirements under N.J.S.A. 19:44A-20.26. In addition, a successful bidder may submit Form 271 ten days before entering into a contract. *Ibid.* In Meadowbrook Carting v. Borough of Island Heights, 138 N.J. 307, 314-315 (1994), the New Jersey Supreme Court set forth the circumstances in which a defect would be considered non-waivable. If the omitted portion of the bid is mandated by statute, material to the price offered, or material to the bidder’s ability to perform, it is non-waivable.

In this case, the student transportation services at issue were publicly advertised by Frankford BOE on July 15, 2025. Form 271 is neither mandated by statute to be furnished at the time the bid is submitted nor material to the price offered and the bidder’s ability to perform. Moreover, First Student provided a completed Form 271 listing no reportable campaign contributions ten days before the award of the contract by Frankford. Therefore, I **CONCLUDE** that First Student was the lowest responsive and responsible bidder and the contract was properly awarded by the governing body.

Krapf argues that the bid is still non-responsive by applying Local Public Contracts Law under N.J.S.A. 40A:11-1, et seq. to explain that New Jersey courts adopted a two-prong test to determine whether a bid defect is material. Under this analysis, a court would be required to determine: (1) if the effect of the waiver of a bid defect would deprive a government entity of assurance that the contract will be performed and guaranteed according to specified requirements; and (2) whether the waiver of the bid defect would

adversely affect competitive bidding by placing the bidder who submitted a defective bid in a position of advantage or otherwise undermine the necessary common standard of competition. Township of River Vale v. Long Construction Company, 127 N.J. Super. 207, 216 (Law Div. 1974).

In applying this law to the facts, the absence of Form 271 still does not deprive Frankford of assurance that the contract would be performed and guaranteed according to the bid specifications. Form 271 requires disclosure of political contributions. That has nothing to do with performance guarantees. Next, even though Frankford's bid specifications did request Form 271 with the bid submission, the waiver of the defect would not adversely affect the bidding process or confer an advantage or otherwise undermine the necessary standard of competition. Even so, First Student did provide their Form 271 disclosure statement more than ten days before the award of the contract, and First Student did not make any reportable campaign contributions. As such, First Student's failure to provide Form 271 with its bid submission affected neither performance guarantees nor competitive pricing.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Krapf's motion for summary decision is **DENIED**, and Frankford's cross-motion for summary decision is **GRANTED**.

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 case. 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 becomes 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 9, 2026

DATE

JOANN LASALA CANDIDO, ALAJ
on behalf of **AURELIO VINCITORE, ALJ**

Date Received at Agency:

2/9/26

Date Mailed to Parties:

2/9/26

id