

**New Jersey Commissioner of Education
Final Decision**

Christian Silva,

Petitioner,

v.

New Jersey Department of Education, Office of School Bus
Safety,

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 he failed to conduct a visual inspection of his school bus at the end of his 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 he is ineligible during the period of suspension for continued employment as a school bus driver.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: July 29, 2026
Date of Mailing: July 29, 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

OAL DKT. NO. EDU 04917-26

AGENCY DKT. NO. 075-03-26

CHRISTIAN SILVA,

Petitioner,

v.

NEW JERSEY DEPARTMENT OF

EDUCATION, OFFICE OF SCHOOL BUS SAFETY,

Respondent.

Christian Silva, petitioner, pro se

Luke D. Hertzell-Lagonikos, Deputy Attorney General, for respondent (Jennifer Davenport, Attorney General of New Jersey, attorney)

Record Closed: May 19, 2026

Decided: June 22, 2026

BEFORE **CLAUDIA L. MARCHESE**, ALJ:

STATEMENT OF THE CASE

On February 18, 2026, after dropping off students at Walter Black Elementary School, petitioner, Christian Silva, a school bus driver, failed to make a visual inspection of the bus and drove away with a child still on the bus. Must Silva's school bus endorsement be suspended? Yes. When a school bus driver leaves a student on a

school bus, the driver's school bus endorsement must be suspended for six months for a first offense under N.J.S.A. 18A:39-29(a).

PROCEDURAL HISTORY

On February 27, 2026, respondent, the Department of Education, Office of School Bus Safety (OSBS), notified Silva that it was suspending his school bus "S" endorsement for six months because he had left a child on his bus.

On March 3, 2026, Silva filed a petition of appeal with the New Jersey Department of Education, Office of Controversies and Disputes. On March 23, 2026, the OSBS filed a motion to dismiss the petition in lieu of an answer. On March 25, 2026, the Office of Controversies and Disputes transmitted the case to the Office of Administrative Law (OAL) 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 May 19, 2026, I held a pre-hearing conference call with the parties. During the conference, Silva advised that he would rely on the statements in his petition and that he would not oppose the motion to dismiss. Both parties declined oral argument, and I closed the record at the end of the conference.

FINDINGS OF FACT

Silva was employed as a bus driver in Hightstown, New Jersey. On February 18, 2026, Silva drove a bus full of school children to Walter Black Elementary School in Hightstown, New Jersey. His bus was parked at the end of the bus line and extended into the street blocking traffic. A teacher boarded the bus to receive the students and stood next to the driver's seat. The bus was still running, and Silva remained in the driver's seat while the children disembarked. While the students exited the bus, Silva attended to a crying child who approached him for help. Silva admits that he was distracted by the bus blocking traffic, the teacher standing next to him on the bus, and the crying child, which is why Silva never completed a visual check of the bus before leaving

the school. He also never turned the bus off, which is significant because the child reminder alarm activates only when the bus is turned off.

Silva drove the bus away from the school and headed to the bus yard. Approximately two minutes after leaving the school, Silva looked in his rearview mirror and saw that a child was still on the bus. He immediately turned the bus around and drove back to the school to return the child.

This is Silva's first violation of the school bus safety act.

CONCLUSIONS OF LAW

The Commissioner of Education may dismiss a petition on the grounds that the petitioner failed to advance a cause of action. N.J.A.C. 6A:3-1.10. The standard by which to decide a motion to dismiss for failure to state a claim in an administrative matter is the same as that governing a motion in Superior Court under R. 4:6-2(e). See Sloan ex rel. Sloan v. Klagholtz, 342 N.J. Super. 385, 393-94 (App. Div. 2001). An appeal can be dismissed for failure to state a claim "if it fails 'to articulate a legal basis entitling [a petitioner] 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)). Thus, if a petition states no basis for legal relief and discovery would not provide one, dismissal is the proper remedy. Banco Popular N. Am. v. Gandi, 184 N.J. 161, 166 (2005).

The moving party is entitled to relief as a matter of law if a cause of action cannot be gleaned from the complaint even after an in-depth and liberal search. Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989). Further, on a motion to dismiss, the court must accept as true the facts alleged in the complaint, and the plaintiff is entitled to every reasonable inference in plaintiff's favor. Maeker v. Ross, 219 N.J. 565, 569 (2014). A motion to dismiss should only be granted in the rarest of instances. Printing Mart-Morristown, 116 N.J. at 772. The question is not whether the petitioner can prove the allegations, but whether the facts alleged are sufficient to state a cause of action. Id. at 746.

The School Bus Safety Act provides that “a school bus 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. The end of the route is defined as “the point where all of the children . . . leave the bus to enter their school and the bus is empty of riders, and before the driver moves on to [his] next route.” Klein v. Dept. of Educ., Criminal History Review Unit, EDU 00852-11, Commissioner Decision (February 21, 2012) <https://www.nj.gov/education/legal/>. The end of the transportation route is where students are to be discharged at their assigned destination. The end of the route is not the location that is the end of the shift or workday for the driver, such as the bus yard. See Severe v. Dept. of Educ., Office of Student Protection, EDU 01502-21, Commissioner Decision (October 31, 2022) <https://www.nj.gov/education/legal/>.

The School Bus Safety Act imposes a mandatory penalty upon a school bus driver who has left a student on their bus at the end of the route. If it is determined that a student was left on the bus at the end of a driver’s transportation route, and it was a first offense, the driver’s school bus endorsement must be suspended for six months. N.J.S.A. 18A:39-29. The penalty is mandatory and no mitigating factors such as distractions may be considered. The fact that the student was unharmed or that the student was discovered and returned in a short time also has no bearing.

In this case Silva admits that after the other students got off the bus at the final stop, he drove away from the school. He also admits that he did not visually inspect the bus before leaving the school. Moreover, Silva admits that a student was still left on his bus when he drove away from the school, which he discovered only when he looked in his rearview mirror a few minutes later.

Therefore, I **CONCLUDE** that petitioner has failed to state a cause of action for which relief can be granted. Accordingly, I **CONCLUDE** that respondent’s motion to dismiss must be **GRANTED** and petitioner’s appeal must be **DISMISSED**.

ORDER

I **ORDER** that respondent's Motion to Dismiss in Lieu of Answer is **GRANTED**, Silva's school bus "S" endorsement is **SUSPENDED** for six months, and Silva's Petition of Appeal is **DISMISSED**.

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.

June 22, 2026



CLAUDIA L. MARCHESE, ALJ

Date Received at Agency

Date Mailed to Parties:

CLM/kl