

39-12 (OAL Decision: Not yet available online)

LARRY GRAHAM, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE DEPARTMENT : DECISION
OF EDUCATION, CRIMINAL HISTORY :
REVIEW UNIT, :
RESPONDENT. :

SYNOPSIS

Petitioner – a school bus driver – appealed the Department’s determination to suspend his school bus endorsement pursuant to *N.J.S.A. 18A:39-28* after an alleged incident in which a child was left on the school bus in January 2011 because petitioner failed to conduct the mandated visual inspection at the end of his route. Petitioner asserted that his bus aide did not pay attention to the count of children on his bus, and that he was not at fault for this reason. He also stated that he was sorry for the incident, and requested another solution to the situation rather than a suspension of his license. Respondent filed a motion to dismiss in lieu of an answer to the petition.

The ALJ found, *inter alia*, that: on January 10, 2011, petitioner failed to discover that a child remained on his bus, notwithstanding his obligation under *N.J.S.A. 18A:39-28* to properly inspect the bus at the end of his route; petitioner failed to advance a cause of action or offer any grounds that would entitle him to relief; petitioner also failed to raise any material facts in dispute that would warrant an evidentiary hearing; petitioner did not contest the fact that a child was left on his bus; and, given the mandatory nature of the penalty for a first-time violator of the statute, a six-month suspension is the only possible outcome in this case. Accordingly, the ALJ granted respondent’s motion to dismiss and ordered petitioner’s “S” endorsement suspended for six months.

Upon full review and consideration of the record, the Deputy Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A. 18A:4-33* – concurred with the findings and determinations of the ALJ. Accordingly, the petition was dismissed and the respondent was directed to notify the Motor Vehicle Commission of its obligation to suspend petitioner’s school bus endorsement pursuant to *N.J.S.A. 18A:39-28 et seq.*, and to notify petitioner’s employer that he is ineligible for the period of suspension for continued employment as a school bus driver.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

January 30, 2012

OAL DKT. NO. EDU 8439-11
AGENCY DKT. NO. 168-6/11

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PETITIONER, :
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Upon review of the record of this matter and the Initial Decision of the Office of Administrative Law, the Deputy Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A.* 18A:4-33 – adopts the Initial Decision granting respondent’s motion to dismiss as the final decision in this case, for the reasons set forth by the Administrative Law Judge.

Accordingly, the petition is dismissed. Respondent is directed to notify the Motor Vehicle Commission of its obligation, pursuant to *N.J.S.A.* 18A:39-28 *et seq.*, to suspend petitioner’s school bus “S” endorsement on his driver’s license for six months and to notify petitioner’s employer that he is ineligible – for the period of suspension – to continue employment as a school bus driver.

IT IS SO ORDERED.¹

DEPUTY COMMISSIONER OF EDUCATION

Date of Decision: January 30, 2012
Date of Mailing: January 31, 2012

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36. (*N.J.S.A.* 18A:6-9.1)