

**New Jersey Commissioner of Education  
Final Decision**

Christina Holding,

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 route and, as a result, a child was left on the bus.

Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed. Petitioner's "S" endorsement is hereby 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 school bus endorsement pursuant to *N.J.S.A. 18A:39-26 et seq.*, and to notify petitioner's employer that she is ineligible during the period of suspension for continued employment as a school bus driver.

IT IS SO ORDERED.<sup>1</sup>

  
COMMISSIONER OF EDUCATION

Date of Decision: March 31, 2025  
Date of Mailing: April 2, 2025

<sup>1</sup> 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 11749-24

AGENCY DKT. NO. 212-7/24

**CHRISTINA HOLDING,**

Petitioner,

v.

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

Respondent.

---

**Christina Holding**, petitioner, pro se

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

Record Closed: February 3, 2025

Decided: February 28, 2025

BEFORE **TAMA B. HUGHES**, ALJ:

**STATEMENT OF THE CASE**

Christina Holding (Holding or “petitioner”), challenges the determination by the Office of Student Protection (OSP or “respondent”) that she had violated N.J.S.A. 18A:39-28, et. seq. for allegedly leaving a pupil on the school bus assigned to her at the end of her transportation route and the six-month suspension of her bus driver “S” endorsement.

## **PROCEDURAL HISTORY**

Holding filed her Petition of Appeal with the Department of Education, Bureau of Controversies and Disputes (Department) on July 8, 2024. In lieu of an answer, the OSP filed a motion to dismiss, pursuant to N.J.A.C. 6A:3-1.10. The matter was transmitted to the Office of Administrative Law (OAL), where it was filed on August 8, 2024, as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

The matter was assigned to me on September 16, 2024. During an initial call on November 7, 2024, Holding represented that she would be filing a motion to compel discovery from the Bridgeton Board of Education (BOE), who is not a party to this action, and the OSP. A briefing schedule was provided to the parties at the time of the call.<sup>1</sup> At the time of the initial call, the parties were informed that Holding would not have to file an answer to OSP's Motion to Dismiss until discovery was complete. Holding did not file a motion—instead, she sent a subpoena to the BOE, seeking, among other things, documentation in the form of a videotape from the bus incident, driver vehicle records, and investigative reports. On December 4, 2024, the BOE filed a Motion to Quash due to procedural and substantive flaws with the subpoena.<sup>2</sup>

A second call was held on January 8, 2025, to discuss the OSP's pending Motion to Dismiss. At the time of the call, Holding stated that she had all of the discovery that she had requested, which included a copy of the bus videotape. At the time of the call, Holding was informed that her opposition to OSP's Motion to Dismiss was due on January 31, 2025.

A third status call was held in this matter on January 30, 2025. The attorney for the BOE was included in the call to discuss the fact that Holding had received a copy of the videotape that had been requested in the subpoena and subject to the Motion to

---

<sup>1</sup> The initial briefing schedule required Holding to submit her motion by November 29, 2024. At her request, this date was pushed back to December 13, 2024.

<sup>2</sup> Between the date of filing and the entry of the Order, Holding received a copy of the videotape, which is one of the items requested in the subpoena.

Quash. At the time of the call, Holding was again informed that her opposition to the Motion to Dismiss was due on January 31, 2025. While the deadline came and went, Holding was given one last opportunity to submit her opposition on February 3, 2025. While she acknowledged the email that was sent to her on February 3, 2025, she failed to submit any opposition.

By Order dated February 3, 2025, the BOE's Motion to Quash was granted. See February 3, 2025, Order Granting Motion to Quash.

For the foregoing reasons, this motion is deemed unopposed.

### **FINDINGS OF FACT**

Holding is employed as a school bus driver for the Bridgeton Board of Education (Board).

On June 18, 2024, at 9:13 a.m., Holding did her last child drop off or "drop" at the Geraldyn O. Foster Early Childhood Center (GOF ECC). See Petition of Appeal.

After conducting her last drop, she drove the bus directly to 515 Bank Street, Bridgeton, New Jersey, which is where the bus is stored, at which time she conducted a search of the bus and found a student. 515 Bank Street is owned by the Bridgeton BOE and is where the district's buses are stored. It is where Holding picks up the bus she operates and drops it off at the end of her route.

Upon finding the child, Holding immediately took him back to GOF ECC. She also called the Assistant Transportation Coordinator and informed her of the situation. She also completed the Daily Vehicle Report.

By letter dated June 26, 2024, OSP notified Holding

on June 18, 2024, at the Bridgeton School District, a child was left on the school bus to which you were assigned,

notwithstanding your obligation pursuant to N.J.S.A. 18A:39-28 et seq. to conduct a visual inspection of the bus at the end of your transportation route to assure that no pupil has been left on the bus. Our records indicate that this is a first offense.

[OSP Brief, Exhibit A.]

Holding filed a Petition of Appeal on July 8, 2024.

### **LEGAL ANALYSIS**

For the following reasons, respondent's motion to dismiss will be treated as a motion for summary decision. While N.J.A.C. 1:1-12.1 does not specifically limit the types of motions that may be made in administrative hearings, and a motion to dismiss is not otherwise precluded under the Uniform Administrative Procedure Rules (UAPR), the more common method for resolving a case on the papers without a plenary hearing in administrative proceedings is by a motion for summary decision under N.J.A.C. 1:1-12.5.

The standard for granting summary judgment (decision) is found in Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520 (1995). In Brill, the Court looked at the precedents established in Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986); Anderson v. Liberty Lobby, 477 U.S. 242 (1986); and Celotex Corp. v. Catrett, 477 U.S. 317 (1986), wherein the Supreme Court adopted a standard that "requires the motion judge to engage in an analytical process essentially the same as that necessary to rule on a motion for a directed verdict," i.e., "whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." Brill, 142 N.J. at 533 (quoting Liberty Lobby, 477 U.S. at 251–52). The Court stated that under the new standard:

A determination whether there exists a "genuine issue" of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The "judge's function is not himself [or

herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”

[Id. at 540 (quoting Liberty Lobby, 477 U.S. at 249).]

The Brill standard contemplates that the analysis performed by the trial judge in determining whether to grant summary judgment should comprehend the evidentiary standard to be applied to the case or issue if it went to trial. “To send a case to trial, knowing that a rational jury can reach but one conclusion, is indeed ‘worthless’ and will ‘serve no useful purpose.’” Id. at 541.

In addressing whether the Brill standard has been met in this case, further guidance is found in R. 4:46-2(c):

An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact.

Of note, the UAPR, including the rule governing summary decision, are designed “to achieve just results, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.” N.J.A.C. 1:1-1.3(a). In line with these goals, “procedural rules may be relaxed or disregarded if the judge determines that adherence would result in unfairness or injustice.” N.J.A.C. 1:1-1.3(b).

After review of the moving papers, I **CONCLUDE** that for the reasons set forth more fully below, under the Brill standards, this matter is appropriate for summary disposition.

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 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 issue in this case is whether the Department established by a preponderance of the credible evidence that petitioner 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. It is undisputed that after she performed her last “drop” at GOFEC at 9:13 a.m., petitioner went directly to 515 Bank Street, at which time she inspected her bus and found a student. It is also undisputed that upon finding the child, she immediately drove the child to GOFEC and reported the incident. It is petitioner’s contention that the end of her route is at 515 Bank Street. For the past fifteen years, this is where her route began and ended and where inspections took place in accordance with the School Bus Driver’s Handbook, Paragraph 4 (Bus Inspections, Care, and Maintenance), Section 4.3 (Checking Bus at End of Route, Run or Trip), which states:

All drivers shall check their bus at the end of each trip or run for students who may have fallen asleep, for articles left behind and/or possible damage. Drivers should return all articles found aboard the bus including articles found on [] field trips that cannot be identified to the school of the transporting.

[Petition of Appeal, Exhibit F.]

The issue at hand in this matter is the interpretation of the “end of each trip or run” phrase, which is not defined in the statute or regulations.

In Klein v. Department of Education, Criminal History Review Unit, EDU 00852-11, the Commissioner of Education (Commissioner) concluded that the “end of the route” as used in N.J.S.A. 18A:39-28 “terminates at the point where all of the children in that group leave the bus . . . and the bus is empty of riders, and before the driver moves on to her next route. At that point, the driver shall inspect the bus for any remaining students.”

Klein, Comm'r decision (February 21, 2012), <http://njlaw.rutgers.edu/collections/oal/> at 2. The Commissioner explained that

[t]he record show[ed] that [the driver,] by walking to the back of the bus on that day, turning off the “Child Minder” button, taking the keys out of the ignition, letting the children out, and locking the doors, fulfilled all indicia of “end of the route” activities save one: She did not inspect the bus. Accepting [the driver’s] argument that the inspection did not have to take place until the bus returned to the depot at the end of the day defies reason and eviscerates the fundamental purpose of the statute – to protect our children and ensure their safety.

[Id. at 2–3.]

In 2015, in Herman v. Department of Education Criminal History Review Unit, EDU 10473-14, Initial Decision (June 23, 2015), <http://njlaw.rutgers.edu/collections/oal/>, rev’d, Comm'r (July 30, 2015), <https://www.nj.gov/education/legal/decisions/>, the Commissioner again rejected the argument that the “end of transportation route” means at the end of the workday, once the bus is dropped off at the bus depot lot. The Administrative Law Judge (ALJ) concluded that N.J.S.A. 18A:39-28’s requirement of a visual inspection at the end of the route did not apply. The ALJ determined that the route had not ended as long as the bus driver had not left the vicinity of the bus and that the visual inspection would be performed when she did depart the vicinity of the bus at the bus depot. Herman, Initial Decision, <https://www.nj.gov/education/legal/decisions/>. Upon review, the Commissioner rejected the ALJ’s initial decision. Citing Klein, the Commissioner reiterated that the bus driver violated the School Bus Safety Act when she failed to visually inspect the school bus at the end of her route—that is, following the departure of the students from the bus, and before returning to the depot. Herman, Comm'r Decision, <https://www.nj.gov/education/legal/decisions/> at 5. Concurring with what he described as the “well-reasoned definition” of “end of the transportation route” provided by the Commissioner in Klein, the Commissioner declared that the ALJ’s rejection of the Commissioner’s holding in Klein “undermines the purpose and intent of the School Bus Safety Act.” Id. at 7. He explained:

[a]s the Commissioner stated in Klein, “Accepting petitioner’s argument that the inspection did not have to take place until



the bus returned to the depot at the end of the day defies reason and eviscerates the fundamental purpose of the statute – to protect our children and ensure their safety.” Klein, supra, at 2. To hold otherwise would excuse – if not promote – inefficiency (by endorsing needless rides to the bus depot for our students) and place children at unnecessary risk of harm. It is nonsensical to delay visual inspection of the school bus until arrival at the bus depot when, in fact, any heightened safety risk to the children can be avoided altogether if they are discovered on the bus while still present on school grounds or prior to leaving the route. While it may be true that [the student] was never left unattended, and it is not known from the present record whether he suffered any harm or distress, the visual inspection required by N.J.S.A. 18A:39-28 should have occurred prior to departing the [school] at the end of the transportation route – when all of the other children had exited the bus.

[Id. at 7–8.]

In his decision, the Commissioner also cited Vickery v. Department of Education Criminal History Review Unit, EDU 00083-15, Initial Decision (June 2, 2015), <http://njlaw.rutgers.edu/collections/oal/>, adopted, Comm’r (July 9, 2015), <https://www.nj.gov/education/legal/decisions/>, which he stated “reinforces the Act’s requirement that the visual inspection of the school bus should have occurred before departing the [school] at the end of the transportation route – when all of the other children had exited the bus.” Herman, Comm’r Decision, <https://www.nj.gov/education/legal/decisions/> at 6.

In Vickery, a school bus driver similarly failed to complete the required visual inspection of the school bus following his departure at the last bus stop on the route and consequently found a sixteen-year-old student, who had fallen asleep and failed to exit the bus, at the bus yard. The driver averred that he had not violated the Act because he did not leave the child alone on the bus and conducted a visual inspection upon his return to the bus yard, which was the end of his route. The ALJ determined that pursuant to Klein, the Act requires that an inspection be conducted when the last child is dropped off during the route, not after the vehicle has finished its drop-offs and returned to its garage or depot. Vickery, Initial Decision, <https://www.nj.gov/education/legal/decisions/>. On

review, the Commissioner adopted the findings and determinations of the ALJ. Vickery, Comm'r Decision, <https://www.nj.gov/education/legal/decisions/>.

Following Klein, Herman, and Vickery, the Commissioner has consistently held that the “end of the transportation route” means at the end of a student drop-off point. See Arcos v. Dep’t of Educ., Crim. Hist. Rev. Unit, EDU 01752-18, Initial Decision, (November 7, 2018), adopted, Comm’r (September 20, 2018), <http://njlaw.rutgers.edu/collections/oal/> (“the end of the transportation route” triggering the school bus driver’s affirmative duty to inspect the school bus under N.J.S.A. 18A:39-28 occurs when the driver drops off the children at the assigned destination and not when the bus driver completes all of her assigned routes for the day.); Pedi v. Dept. of Educ., Office of Student Protection, EDU 04317-21, Initial Decision (October 13, 2021), adopted, Comm’r (November 18, 2021), <http://njlaw.rutgers.edu/collections/oal/> (bus driver violated N.J.S.A. 18A:39-28 when she merely conducted a “turnaround view” and not a full visual inspection of the bus after her first student drop off, continued onto her second route, and subsequently found a child from her first route.); and Severe v. Dept. of Educ., Office of Student Protection, EDU 01502-21, Initial Decision (September 19, 2022), 2022 N.J. AGEN LEXIS 794, adopted, Comm’r (October 31, 2022), <http://njlaw.rutgers.edu/collections/oal/> (the “end of the transportation route” under N.J.S.A. 18A:39-28 is when the children are dropped off at the assigned destination; that triggers the school bus driver’s affirmative duty to inspect the school bus under N.J.S.A. 18A:39-28, not when the bus driver completes all of her assigned routes for the day.)

Here, petitioner contends that the end of the route was at 515 Bank Street, the BOE owned and operated bus yard, and where, for the past fifteen years, all the bus drivers have inspected their buses at the end of their “route.”

The statute requires the driver to visually inspect the bus at the end of his/her transportation route. N.J.S.A. 18A:39-28. Given the caselaw noted above, there can be little doubt that the end of the transportation route was GOFEC—the last stop that petitioner dropped students off before returning the bus to 515 Bank Street. It is undisputed that petitioner did not inspect the bus until she reached 515 Bank Street, which is when she found a student on her bus. Based upon these undisputed facts, I

**CONCLUDE** that petitioner did not visually inspect her bus at the end of her transportation route in violation of N.J.S.A. 18A:39-28.

After OSP determines that a child was indeed left behind at the end of the route, a mandatory penalty is imposed due to the safety implications of such a violation. 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). Here, since petitioner violated the statute, the penalty imposed is mandatory, and there is no discretion to impose anything less than a six-month suspension 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.

For all the foregoing reasons, I **CONCLUDE** that the evidence presented by the parties does not establish any material facts in dispute. Given the limited facts required to support a violation of N.J.S.A. 18A:39-28, I **CONCLUDE** that the arguments offered by OSP amply support summary decision in its favor. Additionally, given the mandatory nature of the penalty for a first-time violator of N.J.S.A. 18A:39-28, I further **CONCLUDE** that a six-month suspension of petitioner's "S" endorsement is appropriate and in accordance with N.J.S.A. 18A:39-29(a).

### **ORDER**

It is hereby **ORDERED** that OSP's motion for summary decision is hereby **GRANTED**, and petitioner's appeal is **DISMISSED**. It is further **ORDERED** that petitioner's "S" endorsement shall be suspended for six months.

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

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting 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 **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to [ControversiesDisputesFilings@doe.nj.gov](mailto: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 28, 2025

DATE



TAMA B. HUGHES, ALJ

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

TBH/dc