

**New Jersey Commissioner of Education
Final Decision**

Joanne Morales, a/k/a Joan Morales,

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 a child was left on her bus after she concluded her transportation route.

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.¹


ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 21, 2025
Date of Mailing: January 22, 2025

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 06656-24

AGENCY DKT. NO. 128-5/24

**JOANNE MORALES, ALSO KNOWN AS
JOAN MORALES,**

Petitioner,

v.

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

Respondent.

Joanne Morales, also known as Joan Morales, petitioner, pro se

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

Record Closed: October 8, 2024

Decided: November 19, 2024

BEFORE **MARY ANN BOGAN**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Joanne Morales, also known as Joan Morales (Morales), challenges the six-month suspension of her bus driver “S” endorsement to operate a school bus issued

by the respondent, Office of Student Protection (OSP), in violation of N.J.S.A. 18A:39-28, et seq., failure to conduct a visual inspection at the end of the transportation route to ensure that no pupil has been left on the bus.

Petitioner filed an Emergent Petition of Appeal challenging the respondent's suspension of her bus driver endorsement on May 7, 2024. (J-3.) The matter was transmitted to the Office of Administrative Law (OAL), where it was filed on May 16, 2024, under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13¹. The emergent hearing was scheduled for May 24, 2024. Just prior to the hearing, the petitioner withdrew the emergent hearing. A telephone conference took place on July 25, 2024, and a hearing date was set to address the underlying petition of appeal. The hearing took place on October 8, 2024, and the record closed.

FINDINGS OF FACT

The respondent relied upon the presentation of documents to demonstrate that Morales failed to visually inspect the bus at the end of her route. Respondent presented the District "Report of a School Bus Driver Failing to Visually Inspect a Bus at the End of a Transportation Route Resulting in a Pupil Being Left on the Bus." (J-1.) The description of the incident states:

On 4-19-24 we requested the video for SHS2 because a parent was looking for her child at almost 3pm from that route. (student is dismissed at 1:15 pm) We called your office and were told that the driver had went to do her following route and did not realize that the student was still on board the bus. We received the video, and it showed the student getting on the bus and the driver specifically talking about the student making sure he was on. After dropping off the last student the bus aide did not do a child check. Additionally, the driver was on her phone or Bluetooth while driving.

The respondent also presented the OSP suspension notice letter issued to Morales, dated May 3, 2024. (J-2.)

¹ The file transmission did not include an answer or motion to dismiss.

Morales testified that when the students entered the bus, a teacher was speaking to her about a situation with another student, and she did not recall the child getting on the bus. When Morales was driving in the direction of the child's stop, she asked her aide if the student was on the bus, and the aide told her that the child was not on the bus. Morales proceeded to take the next child to their stop. In her petition of appeal, Morales submits "[a]s I finished my route, I got to the next school; I noticed the child lifted his head up . . ." (J-3.) Morales seeks a reduced suspension time. She earned her bus driver certificate in January 2020. She acknowledged and took "full responsibility" for not doing her part "at that time."

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 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 Morales 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.

In Klein v. Dep't of Educ., Crim. Hist. Rev. 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.

In 2015, in Herman v. Dep’t of Educ., Crim. Hist. Rev. 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/>>, 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.

In his decision, the Commissioner also cited Vickery v. Dep’t of Educ., Crim. Hist. Rev. 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.

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.); Mitchell v. Dept. of Educ., Office of Student Protection, EDU 04117-21, Initial Decision, (October 18, 2021), adopted, Comm’r (November 29, 2021), <<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 occurred when the driver left her bus unattended when she dropped off documents at the transportation center building and not when the bus driver completed 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), (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, Morales did not visually inspect the bus at the completion of her first route, when all of the children in that group left the bus, before proceeding to her next route, when she found the child was still on the bus. Morales needed to visually inspect the bus for children when she dropped the children off at their designated locations before proceeding to the next route.

The statute is unambiguous in its requirement that the driver visually inspect the bus. Since Morales failed to do so, she violated N.J.S.A. 18A: 39-28.

Morales request for a reduced suspension cannot be considered 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). Here, since Morales was in clear violation of 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.

I **CONCLUDE** that 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 ensure that no child is left on the bus, the respondent has proved by a preponderance of the evidence that Morales failed to comply with the statutory requirement that the driver “shall visually inspect the school bus to which [s]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.

ORDER

It is hereby **ORDERED** that the petitioner’s “S” endorsement shall be suspended for six months. The petitioner’s appeal is **DENIED**.

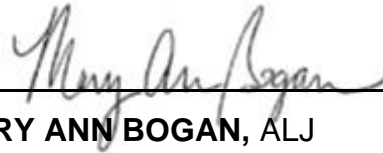
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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.

November 19, 2024

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

Date Mailed to Parties:

MAB/nn

APPENDIX

WITNESSES

For petitioner

Joanne Morales a/k/a Joan Morales

For respondent

None

EXHIBITS

Joint

- J-1 Lakewood School District's report, dated May 2, 2024
- J-2 OSP suspension notice letter, dated May 3, 2024
- J-3 Appeal of OSP suspension notice letter, dated May 7, 2024