

**New Jersey Commissioner of Education  
Final Decision**

Felix Santiago Maldonado,

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 two children were left on his bus after he concluded his 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 he is ineligible during the period of suspension for continued employment as a school bus driver.

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

  
ACTING COMMISSIONER OF EDUCATION

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

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<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**

**DISMISSAL**

OAL DKT. NO. EDU 13240-24

AGENCY DKT. NO. 253-8/24

**FELIX SANTIAGO MALDONADO,**

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF EDUCATION ,**

**OFFICE OF STUDENT PROTECTION ,**

Respondent.

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**Felix Santiago Maldonado**, petitioner, pro se

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

Record Closed: November 1, 2024

Decided: November 21, 2024

BEFORE: **WILLIAM COURTNEY**, ALJ:

**PROCEDURAL HISTORY AND STATEMENT OF THE CASE**

On August 5, 2024, petitioner Felix Santiago Maldonado (Maldonado) filed an appeal of a six-month suspension of his New Jersey driver's license endorsement to operate a school bus. On September 16, 2024, In lieu of an Answer to Maldonado's appeal, the New Jersey Department of Education, Office of Student Protection (DOE)

filed a motion to dismiss petitioner's appeal. On October 4, 2024, a telephone status conference was conducted, and the parties were advised that opposition to the motion, if any, was to be filed by October 18, 2024, and any reply to the opposition was to be filed by November 1, 2024. As of the date of this Initial Opinion and Order, no opposition to respondent's Motion to Dismiss has been received.

### **FINDINGS OF FACT**

The following findings of fact are not in dispute:

1. On July 3, 2023, Maldonado was employed as a school bus driver for SimpliSafe Transportation, which serves the Newark Public School District.
2. At all relevant times hereto, Maldonado held an endorsement on his New Jersey Driver's license, which permitted him to operate a school bus.
3. On July 3, 2023, two students remained on Maldonado's bus after he completed his route.
4. Maldonado failed to visually inspect the school bus upon completion of his route on July 3, 2023, to ensure that no children remained on the school bus.
5. In Maldonado's Pro Se Petition of Appeal, he did not dispute the fact that he left two students on the school bus at the end of his route on July 3, 2023.
6. In Maldonado's Pro Se Petition of Appeal, he stated that "he let [his] guard down [on July 3, 2023] and only allowed the verbal confirmation I received from [my supervisor] to proceed with the day."

### **LEGAL ANALYSIS**

Under N.J.A.C. 6A:3-1.10, the Commissioner may dismiss a Petition of Appeal if it fails to advance a cause of action even if the petitioner's factual allegations are

accepted as true. The standard governing a motion to dismiss for failure to state a claim in the administrative context is identical to that governing a similar motion in the Superior Court. Compare N.J.A.C. 6A:3-1.10 with Rule 4:6-2(e); see also Sloan ex rel. Sloan v. Klagholtz, 342 N.J. Super. 385, 393-94 (App. Div. 2001). Under that standard, the inquiry is “limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” Printing Mart-Morristown v. Sharp Elecs. Corp. 116 N.J. 739, 746 (1989) (internal citation omitted). A plaintiff is required to plead the facts and give detail of a cause of action. Id. at 768. At this stage, “[a] complaint may be dismissed for failure to state a claim if it fails to articulate a legal basis entitling plaintiff 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)). In other words, if the complaint states no basis for legal relief, and discovery would not supply one, dismissal is the appropriate remedy. Banco Popular, 184 N.J. at 166. Such is this case here.

The law imposes an affirmative obligation on school bus drivers to visually inspect the school bus at the end of every route to ensure that no child remains on the school bus. N.J.S.A. 18A:39-28. Further, as an “indication of the Legislature’s strong reaction to any such act on the part of someone entrusted with the care and safety of students,” the Act establishes a mandatory penalty if the DOE’s Office of Student Protection (OSP) makes an uncontested determination that a child was indeed left on the bus at the end of a driver’s transportation route. Garner v. N.J. Dept. of Ed., Crim. Hist. Rev. Unit, OAL Dkt No. EDU 06655-08, Initial Decision (April 3, 2009), adopted Cmm’r Final Decision, (May 1, 2009) (“where the violation has been established, no consideration of the circumstances of the event of the driver may be considered in determining the penalty”).

The statute mandates 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 [or her] school bus endorsement shall be . . . suspended for six months, for a first offense.” N.J.S.A. 18A:39-29. Because the penalty for such an abrogation of duty is set by statute, the only fact necessary to be explored on appeal, if contested, is whether a child was in fact left on the bus at the end of a route. See e.g., Graham v. v. N.J. Dept. of Ed., Crim. Hist. Rev. Unit, Agency Dkt No. 168-6/11, Final Decision

(January 30, 2012); Dacres v. N.J. Dept. of Ed., Crim. Hist. Rev. Unit, OAL Dkt No. EDU 02788-09, Initial Decision (July 26, 2010) adopted, Comm'r Final Decision (Sept. 8, 2010); Firman v. N.J. Dept. of Ed., Crim. Hist. Rev. Unit, OAL Dkt No. EDU 04415-10, Initial Decision (Feb. 7, 2011) adopted, Comm'r Final Decision (March 24, 2011).

Further, N.J.A.C. 6A:3-12.1 limits the aspects of OSP's determination that may be contested by a petitioner. A petitioner may contest OSP's determination that a pupil was left on the bus at the end of the driver's route; that the incident was a driver's second offense; that the pupil was harmed as a result of a foreseeable danger; or that the driver acted with gross negligence. N.J.A.C. 6A:3-12.1(b). By operation of that regulation, if OSP's determination that a child was left on a bus at the end of the route is not contested and none of the other bases for appeal are adequately asserted, then further proceedings are unnecessary.

In this case, the only possible basis for appeal is whether a pupil was left on the bus at the end of the route, because OSP did not issue any determinations relevant to the other potential issues under N.J.A.C. 6A:3-12.1. Maldonado's Petition fails to contest that point, because he concedes in his Petition of Appeal that he discovered two children remaining on his bus after his transportation route had already concluded. Therefore, it is undisputed, and I **CONCLUDE** that two students remained on Maldonado's bus after he concluded his transportation route on July 3, 2024, in violation of N.J.S.A. 18A:39-28 and -29. It is also undisputed, and I **CONCLUDE** that a six-month suspension of his endorsement to operate a school bus is the appropriate penalty, as it is set in N.J.S.A. 18A:39-29 for a first offense.

### **ORDER**

For the reasons set forth above, **IT IS** on this 21st day of November, 2024  
**ORDERED:**

1. That respondent's Motion to Dismiss petitioner's Pro Se Petition of Appeal is **GRANTED**; and
2. Petitioner's August 5, 2024 Pro Se Petition of Appeal is **DISMISSED**.

This Initial Decision terminates all outstanding issues in this matter pending before the Office of Administrative Law.

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.



November 21, 2024  
DATE

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**WILLIAM COURTNEY, ALJ**

Date Received at Agency:

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Date Mailed to Parties:

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**APPENDIX**

**Documents Considered:**

For Petitioner:

None Submitted

For Respondent:

September 16, 2024 Letter Brief

September 15, 2024 Certification of Counsel