

**DC OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION  
OFFICE OF COMPLIANCE & REVIEW  
STATE ENFORCEMENT & INVESTIGATION DIVISION  
STUDENT HEARING OFFICE**

**CONFIDENTIAL**

Jane Dolkart, Due Process Hearing Officer  
1150 5<sup>th</sup> Street, S.E.  
Washington, D.C. 20003  
202-698-3819; 202-698-3825 (Fax)

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STUDENT HEARING OFFICE

**HEARING OFFICER'S DETERMINATION**

IN THE MATTER OF:	)	
André Andrews	)	
DOB 1/23/1994	)	
#2009-1123	)	DATE OF HEARING
Student I.D. # 9033732	)	October 2, 2009
Petitioner,	)	
	)	DATE OF COMPLAINT
V.	)	July 31, 2009
	)	
The District of Columbia	)	ATTENDING SCHOOL:
Public Schools,	)	
Respondent	)	

**COUNSEL FOR PARENT/STUDENT:** Domiento Hill  
James E. Brown & Assoc.  
1220 L Street, N.W.  
Ste. 700  
Washington, D.C. 20005

**COUNSEL FOR DCPS:** Blair Matsumoto  
Office of the General Counsel  
825 North Capitol Street, N.E., 9<sup>th</sup> Fl.  
Washington, D.C. 20002-4232

STUDENT<sup>1</sup>, by and through his Parent

Petitioners,

v.

DCPS

Respondent.

HEARING OFFICER'S  
DETERMINATION

November 14, 2009

Representatives:

Petitioner – Domiento Hill  
DCPS – Kendra Berner

Hearing Officer:

Jane Dolkart

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<sup>1</sup> Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

# HEARING OFFICER'S DECISION AND ORDER

## I. INTRODUCTION

This is a [REDACTED] student who is eligible for special education under the classification of Other Health Impaired (OHI). The student suffers from Mucopolysaccharidosis, a disease which places significant physical limitations on the student. Amongst other things, he uses a wheelchair. The student was placed at Phelps SHS for the 2009-2010 school year and, pursuant to his IEP, is to receive transportation to and from school. On September 3, 2009, Petitioner filed a due process complaint alleging that DCPS had failed to provide transportation for the student to and from school, and had failed to reimburse Petitioner for expenses she incurred in transporting the student or paying for Metro Access to transport the student.

A pre-hearing conference was held on October 5, 2009, and a pre-hearing order was issued on the same day. A resolution session had been held and DCPS had agreed that it was required to reimburse Petitioner for transportation expenses she had incurred due to DCPS' failure to provide transportation. DCPS required that Petitioner provide documentation of her expenses. The pre-hearing order provided that DCPS and Petitioner were to settle this matter prior to the November 5, 2009 hearing date. A meeting was held between Petitioner and DCPS on October 16, 2009. However, DCPS was not satisfied with the documentation provided by Petitioner and refused to agree to resolve the matter.

A second pre-hearing conference was held on November 5, 2009, in lieu of a hearing. Petitioner indicated that she did not have receipts for the use of her car to transport the student, and that Metro Access did not provide receipts when transporting the student. Petitioner had provided transportation from August 24, 2009 through September 10, 2009. Thereafter, DCPS provided the required transportation.

The Hearing Officer ordered that Petitioner prepare a sworn affidavit detailing her expenses, by date. The affidavit, along with a W-9 form, was provided to the Hearing officer and DCPS counsel on November 11, 2009. DCPS does not contest either Petitioner's right to be reimbursed or the amount of the reimbursement. The affidavit provides a detailed record of expenses incurred by Petitioner and constitutes sufficient documentation for reimbursement and is attached hereto, along with the W-9 form. The total amount of the reimbursement is \$64.12

## II. JURISDICTION

This decision was written pursuant to the Individuals With Disabilities Education Improvement Act (IDEA), 84 Stat.175, as amended, 20 U.S.C. ¶ 1400 *et seq.*, 34 CFR

Part 300 *et seq.*, and the D.C. Municipal Regulations, Chapter 30, Title V, Sections 3000, *et seq.*

### III. ISSUES

Has DCPS denied the student FAPE by failing to reimburse her for expenses incurred to transport the student to school when DCPS failed to provide transportation as required pursuant to his IEP?

### IV. ORDER

It is hereby **ORDERED** that

1. DCPS shall reimburse Petitioner the sum of \$64.12 for expenses incurred in transporting the student to and from school, as detailed in the attached affidavit of Petitioner.
2. Reimbursement shall occur no later than 10 business days from the issuance of this HOD.
3. Any delay in meeting any of the deadlines in this Order because of Petitioner's absence or failure to respond promptly to scheduling requests, or that of Petitioner's representatives, shall extend the deadlines by the number of days attributable to Petitioner or Petitioner's representatives.

**This is the final administrative decision in this matter. Appeals on legal grounds may be made to a court of competent jurisdiction within 90 days of the rendering of this decision.**

/s/ Jane Dolkart

Impartial Hearing Officer

Date Filed: November 14, 2009

STATE EDUCATION AGENCY FOR THE DISTRICT OF COLUMBIA  
STATE ENFORCEMENT AND INVESTIGATION DIVISION (SEID)  
SPECIAL EDUCATION PROGRAMS

\_\_\_\_\_  
Petitioner  
  
v.  
  
DISTRICT OF COLUMBIA PUBLIC  
SCHOOLS  
  
Respondent.

Case No. 2009-1266 (JD)

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AFFADAVIT OF \_\_\_\_\_ PARENT AND NEXT OF FRIEND OF \_\_\_\_\_

I, \_\_\_\_\_ declare under the penalty of perjury under the laws of the United States as that the foregoing is true and correct:

1. That I am over 18 years and competent to testify regarding the matters described herein.
2. That I currently reside at \_\_\_\_\_
3. That my home located at \_\_\_\_\_ is my primary residence and I live there with my husband, \_\_\_\_\_ and our minor child, A.A.
4. \_\_\_\_\_ since the start of the 2009-2010 school-year has attended \_\_\_\_\_ located in the District of Columbia.
5. That \_\_\_\_\_ is eligible to receive special education and its related services as a result of his being Other Health Impaired as a result of his suffering from a debilitating condition known as Mucopolidossis.
6. That \_\_\_\_\_ has been provided an Individualized Educational Program ("IEP") from District of Columbia Public Schools ("DCPS") in which he is to receive, *inter alia*, transportation services to and from school.

7. That DCPS, on several occasions, since the start of the 2009-2010 school year, has failed to provide my son with transportation services.
8. That as a result of DCPS' failure to provide my son with transportation services, on numerous occasions, I had to either transport him to and from school myself or have Metro Access transport him in my absence.
9. That I provided transportation services for [REDACTED] myself on the following days:
  - A) August 24<sup>th</sup> (2 trips);
  - B) August 25<sup>th</sup> (1 trip);
  - C) August 26<sup>th</sup> (1 trip);
  - D) August 27<sup>th</sup> (1 trip);
  - E) August 28<sup>th</sup> (1 trip);
  - F) August 31<sup>st</sup> (1 trip);
  - G) September 1<sup>st</sup> (1 trip);
  - H) September 2<sup>nd</sup> (1 trip);
  - I) September 3<sup>rd</sup> (1 trip); and
  - J) September 4<sup>th</sup> (1 trip).
10. That in total I transported A.A. to school and from [REDACTED] using my own personal vehicle, on eleven (11) occasions.
11. That the total distance between my home and [REDACTED] is 2.2 miles in each direction for a total of 4.4 miles.
12. That the total mileage incurred, as a result of the eleven (11) trips was 48.4 miles.
13. That according to the IRS Guidelines regarding reimbursement, I am entitled to reimbursement at a rate of .55 cents per mile.

14. That in total, I am owed from DCPS Twenty-Six Dollars and Sixty-Two Cents (\$26.62) cents as a result of my transporting my son to and from school using my own vehicle.
15. That on the days I was not able to transport A.A. to school when DCPS failed to have the bus pick-up A.A., I scheduled transportation with Metro Access.
16. That the cost of Metro Access is \$2.50 cents each way, of which I paid.
17. That Metro Access provided A.A. with transportation to and from my home on the following days:
  - A) August 25<sup>th</sup> (1 trip);
  - B) August 26<sup>th</sup> (1 trip);
  - C) August 27<sup>th</sup> (1 trip);
  - D) August 28<sup>th</sup> (1 trip);
  - E) August 31<sup>st</sup> (1 trip);
  - F) September 1<sup>st</sup> (1 trip);
  - G) September 2<sup>nd</sup> (1 trip);
  - H) September 3<sup>rd</sup> (1 trip);
  - I) September 4<sup>th</sup> (1 trip);
  - J) September 8<sup>th</sup> (2 trips);
  - K) September 9<sup>th</sup> (2 trips); and
  - L) September 10<sup>th</sup> (2 trips).
18. That the total costs of the monies I paid out for my child to Metro Access was Thirty-Seven Dollars and Fifty Cents (\$37.50).
19. That the total sum of monies I paid out to transport my son to school, using my own vehicle and Metro Access, was Sixty-Four Dollars and Twelve Cents (\$64.12).

[Signature Page to Follow]

# Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See specific instructions on page 2.

\_\_\_\_\_  
(tax return)  
\_\_\_\_\_  
(above)

Check appropriate box:  Individual/Sole proprietor     Corporation     Partnership  
 Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....     Exempt payee  
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)  
**4540 Eads Street, N.E.**

City, state, and ZIP code  
**Washington, D.C 20019**

List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest arrangement (IRA), and provide your correct TIN.

**Sign Here**      Signature of U.S. person

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

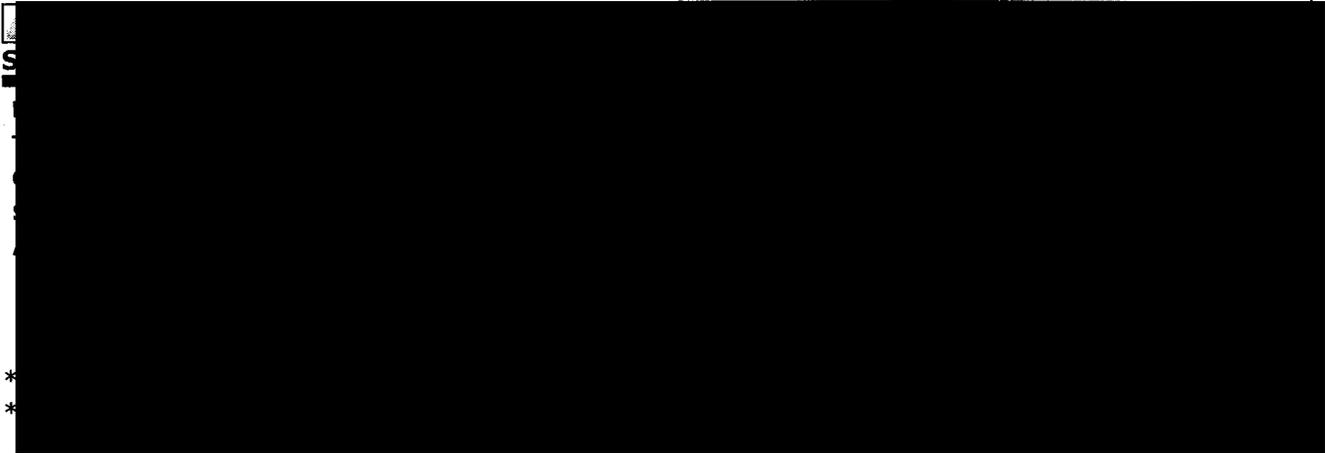
The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



DATED:





Attached is the HOD in the above case, and the affidavit and W-9 form which should be included as an attachment to the HOD.

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