

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

FILED
DEC 14 2009

A.H., a minor, by and
through his next friend,
T.W.D.

EDDIE JEAN CARR, CHANCERY CLERK

PETITIONER

V.

BY _____ D.C.

Cause No.

32009-1976

T/1

HINDS COUNTY SCHOOL DISTRICT BY AND THROUGH
HINDS COUNTY SCHOOL DISTRICT BOARD OF TRUSTEES

RESPONDENT

**PETITION TO ENJOIN THE PLACEMENT OF A.H. IN THE HINDS COUNTY
SCHOOL DISTRICT ALTERNATIVE SCHOOL**

COMES NOW, Petitioner, A.H., a 16-year-old minor, by and through his next friend,
T.W.D., and files this Petition, Requests an Injunction and Appeals the November 16, 2009
decision of the Hinds County School District by and through the Hinds County School District
Board of Trustees to suspend and expel A.H. from Terry High School and send him to the Main
Street Alternative School in Bolton, Mississippi ("alternative school") for approximately six
months of the 2009-2010 school year.

As a 10th grader at Terry High School, A.H. had a bright future ahead of him. He studied
hard, played on the basketball team, and was on track to fulfilling his dream of attending
University of North Carolina. Since then, however, the arbitrary and illegal actions of the Hinds
County School Board have cut his life chances short solely because of his participation in a
harmless game. While riding the school bus one day, A.H. and five other students played a game
during which they tossed coins back and forth. Although one penny inadvertently landed on the

COPY

bus driver, the coin tossing did not injure anyone and was never intended to injure anyone. Hinds County School officials targeted A.H. during its investigation of the coin tossing game—subjecting him to a pressure-filled interrogation during which he was repeatedly threatened, berated and not provided access to his parents. As punishment for his participation in the penny tossing, the school district ordered A.H. to attend the alternative school. A.H. attempted to appeal this decision but—in part because the district denied A.H. access to relevant and potentially exculpatory evidence—his appeals were unsuccessful.

Now, instead of taking college preparatory classes, A.H. languishes in an alternative school where he is forced to self-teach half of his classes. The alternative school provides A.H. with a live teacher for only a few classes; however, even in those classes A.H. is taught with students who are not at his academic level and he receives little educational benefit. The lack of academic credit provided at the alternative school will make it nearly impossible for A.H. to graduate in four years, and he is banned from playing basketball. Hinds County School officials have not just violated A.H.'s rights but they have also derailed A.H.'s future.

The Hinds County School District violated its own policies and thus violated A.H.'s Constitutional rights when it upheld A.H.'s suspension, expulsion and placement in alternative school. The Petitioner files this Petition and seeks declaratory and injunctive relief placing him back into Terry High School.

FACTS

1. On September 28, 2009, A.H. was riding a school bus home from Terry High School. He and five other students were allegedly tossing coins at each other on the back of the bus. One of the tossed pennies inadvertently landed on Ms. Geneva Reid, the bus driver. On

September 29, 2009, A.H. and the five other students were summoned to the office after they arrived at Terry High School.

Due Process Violation: False Confession Obtained by coercion and threat

2. During the investigation of the coin tossing incident, a Hinds County School official threatened, coerced and berated A.H. and through these actions forced A.H. to sign his name to a statement that inaccurately described the coin tossing game and contained a false confession.
3. After the coin tossing incident, A.H. was summoned to the office of Terry High School Assistant Principal Kerry Gray where he was questioned about the event. Mr. Gray told A.H. that the incident was on tape, that he had viewed it, and that he knew that A.H. had thrown the penny that landed on the bus driver. In an effort to entice A.H. to confess, Mr. Gray promised that A.H. would not face delinquency charges and that the police would not be summoned if A.H. confessed immediately. Mr. Gray persisted in questioning A.H. and pressuring him to confess without notifying his parents or explaining to him his rights. Despite Mr. Gray's tactics, A.H. steadfastly denied throwing the penny that landed on the bus driver.
4. Mr. Gray required A.H. to make a written statement describing the events that occurred on the bus and confessing his involvement. A.H. wrote that "they were throwing [coins] on the bus and hit me and I threw it back." Mr. Gray told him that what he had written was "not good enough" and that he was lying.
5. At this point, Mr. Gray had subjected A.H. to an approximately 30 minute long interrogation—during which A.H. was denied access to his parents, repeatedly berated and

threatened. Left with no other option, when Mr. Gray directed A.H. to amend his statement and confess to tossing the penny that landed on the bus driver, A.H. followed the instruction. A.H. added a sentence to the statement he had already written that stated “I hit the bus driver while throwing [a coin] on the bus, and hit several students.”

6. The law casts significant doubt on the validity of confessions made by children who may not understand their rights and frequently aim to please the adults conducting the questioning—thus making false confessions. Indeed, in youth court proceedings, an out-of-court admission by a child is insufficient to support an adjudication that the child is delinquent unless the admission is corroborated by other evidence. Miss. Code Ann. § 43-21-559 (2009).

Due Process Violation: Failure to conduct disciplinary proceedings in accordance with district policy and federal law

7. In violation of the school district’s own policy, the district refused to provide A.H.’s mother with the video evidence of A.H.’s involvement in the coin-tossing game. The district further failed to provide A.H. with adequate notice of the individuals who would testify against him at his disciplinary hearing.
8. Prior to placing a student in the alternative school, “the superintendent of the student’s school district must determine that the written and distributed disciplinary policy of the local district is being followed.” Miss. Code Ann. § 37-13-92 (2).
9. The Hinds County School Board Policy (JCD) regarding the Alternative Restart Program provides that the alternative school:
 - a. “serves compulsory school-age students: (a) who have been suspended for ten (10)

days or more.” Exhibit 1 (Alternative Restart Program, Hinds County School Board Policy JCD).

b. has “minimum guidelines” that “require the following components:

- i. The student will be given notice of the charges against him/her;
- ii. The student will be provided with the evidence against him/her;
- iii. The student will be allowed to present his/her side of the event/infraction;
- iv. The appropriate school official will recommend to the superintendent or his/her designee that the student be placed in the alternative program;
- v. The student’s parents or guardians will be notified in writing of the final recommendation of the principal and the superintendent and will be given the opportunity for a hearing;
- vi. The parent or guardian must personally bring the student to the alternative program site of the first day of attendance for a conference with the principal, and the parent/guardian and student must sign a behavior contract at this time;
- vii. All placements in the alternative program will be subject to review by the superintendent or his/her designee;
- viii. The Hinds County School Board is the final authority on placement of students at the Alternative Restart Center.” *Id.*

10. The policy of the district regarding videotape, as described in the Hinds County School District’s Code of Conduct, states that videos are not available for viewing “except by school administrators, the HCSD Board members, law enforcement officials involved in

an official investigation, or by parents/guardians where behavior by their child may have consequences that would result in a long-term suspension (more that [sic] ten days).”

Exhibit 2.

11. After receiving A.H.’s coerced confession, Mr. Gray called A.H.’s mother and summoned her to the school. During their phone call, Mr. Gray told A.H.’s mother about the incident and described Ms. Reid as “one of [their] own” because she is the mother of Hinds County School District’s Assistant Superintendent Delesicia Martin. He went on to say that “someone had to be punished” for the incident. When A.H.’s mother arrived at Terry High School, she asked Mr. Gray about the consequences of the coerced confession and requested to view the video tape of the incident. In clear violation of the district’s own policy, Mr. Gray told her that because A.H. had confessed, he was not required to show her the tape. Exhibit 3 (Affidavit of T.W.D.).
12. Mr. Gray informed A.H.’s mother that that he had to expel her son. *Id.* Per his discipline report, he was suspended on the morning of September 29, 2009 after attending only homeroom and a portion of his first period Biology class. He was given notice that he would be recommended for placement in the alternative school.
13. On September 29, 2009, the same day he was sent home, A.H. and his mother were given Notice of a Due Process Hearing advising them of the Principal’s recommendation to place A.H. at the RESTART Alternative School. *See* Ex. 4 (“Notice of a Due Process Hearing”). On the Notice of a Due Process Hearing, the district listed “Kerry Gray” as the person expected to offer statement against A.H. The suspension began on September 29, 2009—during which time he received no educational services. He was not able to attend a

full day in the alternative school until October 16, 2009.

14. On the morning of October 14, 2009 prior to the hearing, A.H.'s attorney at the time, A. Michael Espy, requested a copy of the bus tape so that he could view it for exculpatory evidence. His request was denied.
15. A.H.'s mother was given notice that Mr. Gray would be the witness at the hearing. Despite information provided on the notice, the only witness called was Principal William Sellers who had no first-hand knowledge of the incident or of Mr. Gray's interrogation of A.H. Mr. Sellers read a prepared statement describing the incident and accusing A.H. of assaulting the bus driver. He did not read A.H.'s statement or show any video footage of the incident. At no time during this hearing were witnesses presented or made available for cross-examination, nor was A.H. provided with a copy of the memorandum read by Mr. Sellers in advance of the hearing.
16. In failing to provide A.H. with the video surveillance evidence, in denying him the opportunity to cross-examine witnesses and in providing him with an inaccurate notice, the School Board failed to follow its own policies and violated A.H.'s Constitutional right to due process.

Due Process Violation: Insufficient evidence to support punishment

17. When A.H. appealed his punishment to the school board, it did little more than rubberstamp the decision of the Principal and sanction the numerous due process violations A.H. endured—including violations of the Board's own policies.
18. Evaluated in the light most favorable to the district, A.H. and his friends played a coin toss game during which a coin accidentally landed on the bus driver. Under no analysis could

this unfortunate incident constitute an assault. The evidence simply cannot support a finding that in tossing a coin, A.H. assaulted the bus driver.

19. On October 14, 2009, the "School Admission Appeals Committee" heard arguments from A.H.'s attorney appealing the Principal's recommendation to place A.H. at the alternative school. Among other things, A.H. argued that under Mississippi law, a charge of assault requires a showing of intent that was not made in this case; that neither A.H.'s parents nor his attorney were permitted to view the videotape of the alleged incident despite the district's policy and the parent's and the attorney's requests; and that Mr. Gray coerced the confession from A.H.
20. Mr. Sellers made a statement to the appeals committee and his recommendation was upheld. A memo from Mr. Gray dated September 29, 2009 was in A.H.'s file and it stated that Mr. Gray spoke to the following students regarding the incident: "J.R., A.H., B.P., J.B., R.D. and L.B." Exhibit 5 (September 29, 2009 Memo from Gray). Mr. Gray's memorandum goes on to state that "[a]fter talking with these students, several of the statements confirmed that A.H. did in fact throw an item toward the front of the bus and hit the windshield, (made a small crack) and bounced back and hit Mrs. Reid. Student A.H. also admitted to me that this incident happened and at this point, the children were given Due Process." *Id.* A copy of Mr. Gray's memo was not given to the parent prior to the October 14, 2009 hearing.
21. A.H.'s testimony was that "students were throwing [coins] on the bus, one hit me, I threw it back and I don't know who it hit. Mr. Gray asked me to write a statement. I admitted to hitting the driver because he said that I did it." Exhibit 6 (Due Process Hearing Notes).

With that evidence, the committee recommended upholding the placement at the alternative school until A.H. earned 3375 points, placing A.H. there through approximately April 1, 2010.

22. A.H.'s testimony was confirmed by the bus driver's written account, which demonstrates that she could not identify which student threw the coin that landed on her. The bus driver states that "an object hit [her] windshield and then hit [her] a few minutes later [she] saw the students putting their books bags over their heads and I saw coins being thrown over the bus. The boys in the back were laughing." Exhibit 7. The bus driver omits the names of the students who were throwing the coins entirely and fails to mention whether she saw a particular student throw the coin that landed on her.
23. A.H.'s parent received a phone call on October 14, 2009 from the district's parent liaison informing her that her son's placement at the alternative school was upheld. On or about October 16, 2009, the parent received a letter from the district's Superintendent stating that the School Admission Appeals Committee voted to uphold the decision to place A.H. in the alternative school. A.H.'s mother was directed to "contact Mr. Chad Shealy, Principal, and arrange an appointment for his registration [at the alternative school]." See Exhibit 8 (Letter to A.H.'s mother from Handley).
24. A.H. appealed his case to Hinds County School Board ("Board"). Prior to the Board hearing, A.H.'s current attorneys requested a copy of the bus video by an oral request to Dr. Delesicia Martin and by written request to Superintendent Dr. Stephen Handley dated October 23, 2009. Exhibit 9. Both requests were denied. Dr. Handley responded by sending a letter back stating that "bus videos are erased with new video after

approximately 2-6 days and only pulled and retained when they become a critical piece of evidence for the due process afforded in a particular situation.” Exhibit 10. He went on to state that “the video was not pulled nor retained since there was a full written confession from the student, and the recommendation would not have resulted in a long-term suspension.” *Id.*

25. On November 12, 2009, A.H., his attorney and his mother were afforded five minutes before the Hinds County School Board to appeal the decision of the school level committee upholding the Principal’s recommendation of placement in the alternative school. A.H.’s attorney presented evidence of the numerous due process violations present in this case, including the district’s refusal to provide A.H. with the video evidence. A.H.’s parent also attempted to plead for her son’s educational rights, but the Board cut her off before she could finish.
26. The Board upheld the decision of the Principal and Appeals Committee and recommended he continue to receive services at the alternative school despite evidence that the parent’s request to see the video was denied.
27. On information and belief, the school board rarely if ever overturns the decision of the Principal. As a result, the School Board is not the final authority on the placement of a child at the RESTART ALTERNATIVE CENTER, as that authority has been delegated to Vice Principals in violation of state law. The School Board is therefore violating its duty to ensure due process for its students.

Alternative School Violations: Failure to provide Adequate Educational Services

28. The school boards of all school districts must maintain and operate an alternative school

program. Miss. Code Ann. § 37-13-92 (1). Furthermore, the state statute provides “any alternative school program operated under the authority of this section shall meet all appropriate accreditation requirements of the State Department of Education.” Miss. Code Ann. § 37-13-92 (5). The guidelines that shall require, “at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program...”. Miss. Code Ann. § 37-13-92 (7).

29. The instruction A.H. receives at the alternative school departs significantly from the educational requirements contained in state statutes and in the district’s own policy. Given the dearth of instruction offered at the school, A.H. will gain little educational benefit from this placement.
30. While attending the alternative school, A.H. was denied access to his first nine weeks’ tests. At the alternative school, class begins at 8:30 AM and concludes at 2:00 PM. Instruction does not always begin at 8:30 AM because he is the only student in his first period Biology class and his instructor is often late. As a result, A.H.’s instruction generally begins around 9 AM. The curriculum is dramatically different from the one he was following at Terry High School where A.H. was a 10th grader who was active on the school basketball team and on track to go to a 4-year college. As a result of the District’s actions, A.H.’s college athletic scholarship options are in jeopardy because he was removed from the Terry High School basketball team.
31. A.H.’s courses as a 10th grader at Terry High School included:
 - a. Oral Interpretation (Theater II)
 - b. Geometry

- c. Biology II
- d. Spanish I
- e. English II
- f. World History
- g. Advanced Fitness.

32. At the Alternative School, A.H.'s course load is limited to:

- a. Biology II (partially self-taught because instructor is often late)
- b. Geometry
- c. English II
- d. World History (self-taught on a computer program)
- e. Spanish (self-taught through a computer).

33. This year, because of his placement in the alternative school, he will receive significantly fewer academic credits than he would receive at Terry School High. This deficiency may jeopardize his chances of graduating in four years. Further, because A.H. will miss the 2009-2010 basketball season, he will be ineligible to play basketball for the 2010-2011 basketball season.

34. A.H. receives instruction only 230 minutes of instruction during the school day. The rest of his day is spent teaching himself or with various other non-academic activities. He reported to his mother that the students there just "chill." Exhibit 3 (Affidavit of T.W.D.).
The lack of instruction is not preparing him for state subject area tests or for the transition back to his 10th grade class load at Terry.

35. From October 16, 2009, until the present day, A.H. has remained at the alternative school.

He has fallen behind his peers who attend Terry High School and lost academic credit necessary to ensure his graduation. He has not received the "Individualized Instruction Plan" required by state law nor is he being taught by a culturally diverse staff.

36. In violation of state law, neither A.H. nor his mother received or been offered any formal counseling to address the trauma A.H.'s educational transition has inflicted upon himself and his family. These failures on the part of the district are causing A.H. irreparable harm.

CLAIMS FOR RELIEF

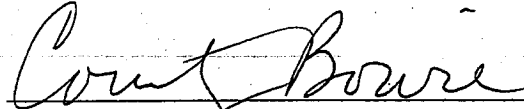
37. Pursuant to Mississippi law and regulations, Petitioner files this appeal and seeks a preliminary and a permanent injunction of the school board's decision on the basis that:
- a. The Hinds County School District's placement of A.H. in the alternative school violated his substantive and procedural due process rights under the state and federal Constitution;
 - b. The Hinds County School Board's decision to place A.H. at the alternative school was unsupported by substantial evidence, arbitrary, and capricious;
 - c. The School District's Hinds County RESTART Alternative School violates its own policy and thus violates A.H.'s statutory rights.
 - d. The harm being suffered by A.H. is irreparable and there is no adequate remedy at law.

WHEREFORE PREMISES CONSIDERED, Petitioner respectfully requests that this Honorable Court review the decision of the Board of Trustees and reverse the same and enter an injunction permitting A.H. to return to his home school immediately. Petitioner also requests any

and all other relief allowed by law.

RESPECTFULLY SUBMITTED, this the 14th day of December, 2009.

BY:



MISSISSIPPI YOUTH JUSTICE PROJECT-SPLC

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ALTERNATIVE RESTART PROGRAM

The Board of Education of the Hinds County School District maintains and operates an alternative restart program. Standard 29, Mississippi Public School Accountability Standards

The alternative school program serves compulsory school-age students:

- a. Who have been suspended for ten (10) days or more.
- b. Who are referred for placement based upon a documented need because of disciplinary problems;
- c. Who are referred by order of a chancellor or youth court judge, but only with the consent of the principal; and
- d. Whose presence in the classroom, in the determination of the school superintendent or principal, is a disruption to the educational environment of the school or a detriment to the best interest and welfare of the students and teacher of such class as a whole.

Parents/guardians are asked to transport their children to and from the alternative school. However, the district will provide transportation if the parent/guardian cannot do so. The procedure for assigning a student to the alternative program for non-expulsion infractions is as follows:

1. The student will be given notice of the charges against him/her;
2. The student will be provided with the evidence against him/her;
3. The student will be allowed to present his/her side of the event/infraction;
4. The appropriate school official will recommend to the superintendent or his/her designee that the student be placed in the alternative program;
5. The student's parents or guardians will be notified orally of the initial charges and possible consequences;
6. The student's parents or guardians will be notified in writing of the final recommendation of the principal and the superintendent and will be given the opportunity for a hearing;
7. The parent or guardian must personally bring the student to the alternative program site on the first day of attendance for a conference with the principal, and the parent/guardian and student must sign a behavior contract at this time;
8. All placements in the alternative program will be subject to review by the superintendent or his/her designee;
9. The Hinds County School Board is the final authority on placement of students at the Alternative Restart Center.



INDIVIDUALS WITH DISABILITIES

As provided under Section 2 of Senate Bill 2506 (1999 Legislative Session), "Educational services for children with disabilities who have been suspended or expelled from school shall be provided based on the requirements of IDEIA, applicable federal regulations and state regulations." ~~Whenever a student with a disability is placed in an~~ interim alternative setting, the setting must be one which enables the student to continue to participate in the general curriculum, to continue to receive those services and modifications described in the students current IEP, and to receive services and modifications designed to address the student's behavior.

MINIMUM GUIDELINES

The minimum guidelines for alternative school programs shall also require the following components:

- a. Clear guidelines and procedures for placement of students into alternative education programs which at a minimum shall prescribe due process procedures for disciplinary and general educational development (GED) placement;
- b. Clear and consistent goals for students and parents;
- c. Curricula addressing cultural and learning style differences;
- d. Direct supervision of all activities on a closed campus;
- e. Full-day attendance with a rigorous workload and minimal time off;
- f. Selection of program from options provided by the local school district, Division of Youth Services or the youth court, including transfer to a community-based alternative school;
- g. Continual monitoring and evaluation and formalized passage from one step or program to another;
- h. A motivated and culturally diverse staff;
- i. Counseling for parents and students;
- j. Administrative and community support for the program; and
- k. Clear procedures for annual alternative school program review and evaluation.

STUDENT CONDUCT AND GRADES

Criteria used in the evaluation process to determine a student's grade must be supported by rationale. The criteria must be in writing and must include the following:

1. Course content (goals, objectives, materials, etc.) as outlined in the curriculum guides
2. Methods of evaluation — grades will reflect some combination of the areas listed below:

PAGE 3 – ALTERNATIVE SCHOOL PROGRAM - JCD

- a. Class work
- b. Homework
- c. Test scores
- d. Participation
- e. Skill application
- f. Preparation for class

3. The effect of absence on grades
4. Procedures for making up assigned work and tests
5. Other criteria as may be approved by the superintendent and school board

LEGAL REF.: MS CODE §37-13-92; Senate Bill 2506

Mississippi Public School Accountability Standards

CROSS REF.: Policies IDDF Special Education Programs

IFB Instructional Services/Protection of Instructional Time

Students who successfully complete a two-year vocational program will receive a certificate of completion from the Career Center. Certificate students will receive a certificate that designates objectives mastered on their I.E.P. Attendance is based upon the Career Center application process that may be initiated through the home school counselor. Admission must be approved by both the home school and by the Career Center.

CODE OF CONDUCT

INTRODUCTION

Students have a responsibility to know and to respect the rules and regulations of the school. Students are responsible for conducting themselves in an appropriate manner at all times. Persons who obstruct any teaching, administrative, or extracurricular activity shall be subject to such disciplinary procedures as set forth in this document.

To assist students, parents, and staff in maintaining such an environment, this *Student Code of Conduct* has been developed.

Corporal punishment may only be used as a method of discipline in the Hinds County School District with a Parental Consent form on file at the school. (Policy JDB, JDB-F). The Board of Education has designated the principals and assistant principals as the only personnel with the authority to administer corporal punishment as a method of discipline in the district. Corporal punishment must be administered in accordance with the guidelines in Board Policy JDB.

Schools offer a variety of student detention plans for certain misbehaviors. Students may be assigned either to in-school, before/after-school, or Saturday detention depending upon what options the student's school may offer.

This book includes a plan for disciplinary action. While it covers many offenses, it is recognized that the plan is not all-inclusive. After careful review of the facts and other pertinent information in each case, the principal will take appropriate action.

A copy of this handbook is provided to each student enrolled in this district and his/her parent/legal guardian. At the time of a student's enrollment, a parent or guardian must acknowledge receipt of a handbook.

Security Surveillance Camera Procedure

The Hinds County School District uses security surveillance cameras in buildings, on buses, and other selected areas. The video captured by these cameras is used in the investigation of incidents that may occur. Because all video contains confidential student information in the form of images of actions by other students, the videos are not available for viewing except by school administrators, the HCS D Board members, law enforcement officials involved in an official investigation, or by parents/guardians where behavior by their child may have consequences that would result in a long-term suspension (more than ten days).

STUDENT CODE OF CONDUCT

Gun-Free Schools Act/Possession of Weapons on Educational Property

The Hinds County School District operates in compliance with the Gun-Free Schools Act, Title VIII of the Elementary and Secondary Education Act of 1965. Therefore, all policies and procedures adopted by the



IN THE STATE OF MISSISSIPPI

COUNTY OF HINDS

AFFIDAVIT OF TARA W. DOUGLAS

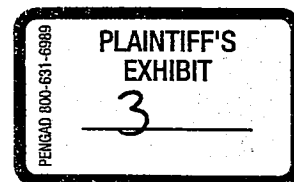
I, Tara Wren Douglas, declare under penalty of perjury:

1. My name is Tara Wren Douglas, I reside at 1235 Wildwood Cove, Byram, MS 39272.

2. On September 29, 2009, I was called to Terry High School by Assistant Principal Kerry Gray. I was informed by Mr. Gray that my son, A.H. was being suspended and recommended for placement in the district's alternative school because of an incident that occurred on the bus the day before.

3. Mr. Gray told me that A.H. had assaulted a school bus driver and that he had seen a videotape of the incident. I asked to see the videotape and he told me that I was not permitted to see it and that my son had already confessed. Mr. Gray told me that the bus driver was "one of our own" -- which made me think that she was a school employee or related to a school employee -- and that "someone had to be punished."

4. On September 29, 2009, I called the bus barn to speak to someone I believed was a manager. I wanted to see the video because my son denied hitting the bus driver. During that conversation, I was told that video is kept on hard drive and that in order for district officials to view it, someone would have to make a request to transfer the video. He also stated that principals have a key and can access bus video recorders. The bus barn would not let me view the video.



5. On September 30, 2009, I contacted Terry High School principal Sellers to ask to see the video of the incident. I left two messages for him. He called back on October 1, 2009 and refused to let me view the video because he said it had been taped over.

6. I began contacting attorneys to represent my son. Mr. Espy agreed to attend the hearing with us and also requested a copy of the video. He too was denied access to it.

7. On October 14, 2009 we appealed to the School Admission Appeals Committee at the district office in Raymond. They heard the testimony of the principal, Mr. Sellers, and he read a statement that I assume he prepared describing my son and the other students in the coin tossing prank. He did not read the confession or show the video. That was the only evidence the school offered.

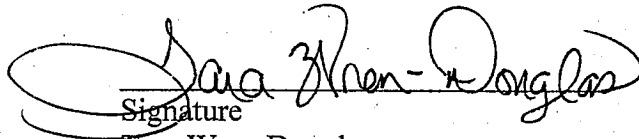
8. I argued that my son had not been in trouble before and that he didn't deserve to be suspended. My lawyer argued that my son did not commit assault; he described the assault statute in detail. Mr. Espy also argued that A.H. did not deserve to be placed in the alternative school, and that the district had failed to follow its own policies in not producing the video of the incident.

9. The district affirmed the Principal's decision at the October 14, 2009 hearing. I was called by the district's family liaison that evening and told that my child had to attend the alternative school. The first day I could take my child to the alternative school was October 15, 2009. I went there the morning of the 15th with my son and spoke to the Principal Chad Shealy. After starting to enroll A.H., I was instructed to go purchase a uniform for him. I drove to Wal-Mart to purchase a uniform that morning. I brought A.H. back to school for the last few hours of the afternoon.

10. We received a letter from the district regarding their decision to place him at the alternative school on or about October 19, 2009.

11. A.H. is not getting the same homework and has told me that he spends time at the alternative school "chilling." He has only done two projects at home since enrolling in the alternative school. Otherwise, he has little or no homework. I requested that the district give me his Individualized Instruction Plan, to date I have not received it and I am unaware of its existence.

12. We do not have a computer at home for A.H. to use.



Signature

Tara Wren Douglas
1235 Wildwood Cove
Byram, MS 39272

Subscribed and sworn before me, this 14th day of
December, 2009.



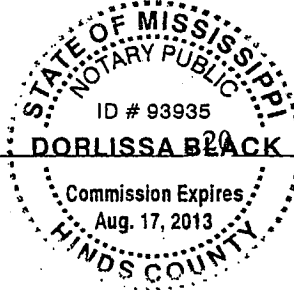
Signature of Notary

DORLISSA BLACK

Printed Name of Notary

NOTARY PUBLIC

My commission expires: DORLISSA BLACK



**STUDENT NOTICE OF DUE PROCESS HEARING
HINDS COUNTY SCHOOL DISTRICT**

September 29, 2009

Date

To: Tara Douglas Parent(s) or Guardian

1235 Wildwood Cove Address

Byram, MS 39272 City, State, Zip Code

Alexander Hopkins Student's Name

Same Address

City, State, Zip Code

You are hereby notified that the undersigned Administrative Head of Terry High School has recommended a due process hearing which could result in possible placement at the Restart Center of Alexander Hopkins.

You are advised that you have the right to a due process hearing to protest the principal's recommendation before the School Admission Appeals Committee of the Hinds County School District.

- (1) The infraction at issue and the charges lodged against the student are as follows: (If more space is needed use other side of this sheet)

Class V, #6: Physical and/or verbal assault of teachers, administrator, visitors or other staff members.

- (2) The names of all persons who are expected to offer statements against the student are as follows:

Kerry Gray

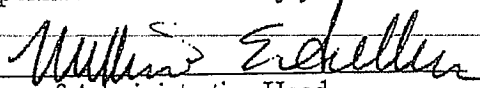
Each of you shall also have the right:

- (1) To have counsel present at the hearing;
- (2) To cross-examine or otherwise pose questions to persons giving statements adverse to the student;



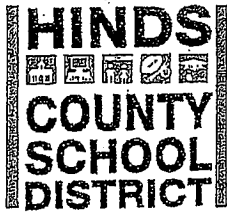
- (1) To offer statements by the student and parent(s) or guardian and any other person who has information relevant to the charges advanced by the Administrative Head of the Terry High School.

A copy of this letter has been sent to the Superintendent of Education for the Hinds County School District from the undersigned recommending such hearing. The Superintendent will notify you of the exact time and place for the hearing.


Signature of Administrative Head

Terry High School
School

cc: Superintendent of Education



Terry High School

235 West Beasley Road
Terry, Mississippi 39170

Dr. William E. Sellers
Principal

Coach Eddie Pickle
Mr. Kerry Gray
Mr. Gary Tabor
Assistant Principals

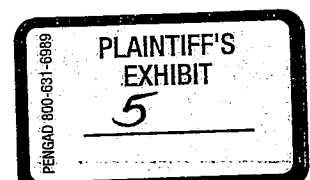
FROM: Kerry Gray *Kerry Gray*
Assistant Principal

SUBJECT: School Bus Disciplinary Report

DATE: September 29, 2009

On 9/29/09, the driver of bus#08-7 reported that several students were involved in an incident in which coins were being thrown at students and the driver while the bus was in motion. I was also informed that several students witness these actions. I talked with the driver (Mrs. Reid) about the following students: JaMorris Rand, Alex Hopkins, Bryce Perry, Jamal Blackmon, Randy Dixon and Louis Brown. After talking with these students, several of the statements confirmed that Alex Hopkins did in fact throw an item toward the front of the bus and hit the wind shield, (made a small crack) and bounced back and hit Mrs. Reid. Student Alex Hopkins also admitted to me that this incident happen and at this point, the children were given Due Process.

235 W. Beasley Road • Terry, MS 39170
Telephone (601) 878-5905 • Fax (601) 878-2782



Due Process Hearing Notes

Student Name: Alex Hopkins School: TTS

Parent Name: Tara Douglas Grade: 10 Age: 16

Hearing Officer: Wilkerson Date: 10/14/09

Infraction: Physical and/or verbal assault of teachers, administrator, visitors or other staff members

Principal Recommendation: Restart Placement 3375

Yes or No

1. Did the student attend the hearing?

Yes or No

2. Did the student's parent or legal guardian attend the hearing?

Yes or No

3. Was the parent informed of the time and place of the next board meeting? (Only for expulsions)

Yes or No

4. Was the parent represented by legal counsel? If yes, please list name(s):

Mike Espy

Yes or No

5. Was the student and parent informed of the charges against the student?

Yes or No

6. Did the principal of the school give testimony against the student?

Yes or No

7. Did other individuals give testimony against the student? If yes, please list:

Yes or No

8. Did the student testify during the hearing? If yes, please briefly describe:

Students were throwing on the bus, one hit me, I threw it back and I don't know who it hit, Mr. Gray asked me to write a statement, I admitted to hitting the driver because he said that I did.

Yes or No

9. Did witnesses testify on the student's behalf? If so, please list name:

Tara Douglas, Mother

Yes or No

10. Was the parent given an opportunity to testify on the student's behalf?

Yes or No

11. Was the parent informed that he or she would receive the committee's decision in writing within three to five business days.

Committee Recommendation: upheld placement & Restart Center for 3375 pts

Recorder's Name: John N...



**School Bus Discipline Report
HINDS COUNTY SCHOOL DISTRICT**

Date: 9/28/09
 School: TMS
 Bus No. 06-10 Time: PM

_____ has been cited for an infraction of the rules checked below:

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Failure to remain seated | <input type="checkbox"/> Eating or drinking | <input type="checkbox"/> Fighting | <input type="checkbox"/> Profanity |
| <input type="checkbox"/> Failure to follow directions | <input type="checkbox"/> Hanging out of window | <input type="checkbox"/> Disrespecting Driver | <input type="checkbox"/> Shouting |
| <input checked="" type="checkbox"/> Throwing object <u>on</u> /out of bus | <input type="checkbox"/> Use of Electronic Device | <input type="checkbox"/> Smoking | <input type="checkbox"/> Littering |
| <input type="checkbox"/> Standing while bus is moving | <input type="checkbox"/> Talking loud | <input type="checkbox"/> Vandalism | <input type="checkbox"/> Out of assigned seat |
| <input type="checkbox"/> Exiting bus at unauthorized stop | <input type="checkbox"/> Laughing loud | <input type="checkbox"/> Harassing/Bothering others | <input type="checkbox"/> Other |

Comments: At approximately 4:10 - an object hit my windshield and then hit me a few minutes later I saw students putting their book bags over their heads and I saw coins being thrown over the bus. The boys in the back were laughing.

Date of Offense: 9/28/09 Driver's Signature: Reed

Student's Statement _____

Student's Signature _____

Principal's Action: 1st=Warning (unless severe) 2nd=1 day 3rd=3 days 4th=5 days 5th=10 days 6th=30 days 7th=expulsion-remainder of year

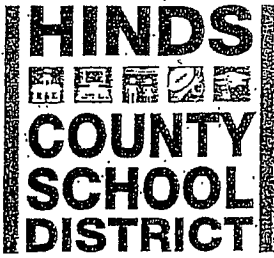
- According to our records, this is the _____ offense recorded in our office.
 Your child has been suspended from riding the bus for _____ day(s). He/She may resume riding on _____ (Date)

Principal's Signature _____ Date _____

Parent notified by: Copy sent home by child Telephone Parent's Signature _____

WHITE- Principal's Copy CANARY- Bus Driver's Copy PINK - Parent's Copy





Superintendent.
Stephen L. Handley, Ed.D.

Assistant Superintendent
Delesicia M. Martin, Ed.D.

Hinds County School Board
Caroline Jacobs - District 1
Ivan Smith - District 2
Linda Laws - District 3
Angel Skinner - District 4
Dorothy Hicks, President - District 5

October 14, 2009

Ms. Tara Douglas
1235 Wildwood Cove
Byram, MS 39272

Dear Ms. Douglas:

As you can see from the attached, the School Admission Appeals Committee voted to uphold the administrative head's recommendation and placed your son Alexander Hopkins at the Main Street RESTART Center in the Hinds County School District until 3375 points are accumulated. You will need to contact Mr. Chad Shealy, Principal, and arrange an appointment for his registration. However, if you disagree with this decision, you may appeal to the Hinds County School Board, which meets on November 12, 2009, at 5:00 p.m. in the boardroom of the Central Office located on Highway 18. In order for your case to appear on the agenda at this meeting you will need to write a letter to the Superintendent by November 5, 2009.

If you have questions regarding this matter, please contact me.

Sincerely,

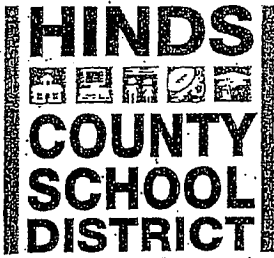
A handwritten signature in black ink that reads "Stephen Handley". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Stephen Handley, Ed.D.
Superintendent

SH/ls

Enclosure





Superintendent
Stephen L. Handley, Ed.D.

Assistant Superintendent
Delesicia M. Martin, Ed.D.

Hinds County School Board
Caroline Jacobs - District 1
Ivan Smith - District 2
Linda Laws - District 3
Angel Skinner - District 4
Dorothy Hicks, President - District 5

October 14, 2009

Mr. Alexander Hopkins
1235 Wildwood Cove
Byram, MS 39272

Dear Mr. Hopkins:

As you can see from the attached, the School Admission Appeals Committee voted to uphold the administrative head's recommendation and placed you at the Main Street RESTART Center in the Hinds County School District until 3375 points are accumulated. Your parents will need to contact Mr. Chad Shealy, Principal, and arrange an appointment for your registration. However, if you and your parents disagree with this decision, you may appeal to the Hinds School Board, which meets on November 12, 2009, at 5:00 p.m. in the boardroom of the Central Office located on Highway 18. In order for your case to appear on the agenda at this meeting your parents will need to write a letter to the Superintendent by November 5, 2009.

If you have questions regarding this matter, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Handley".

Stephen Handley, Ed.D.
Superintendent

SH/ls

Enclosure

October 23, 2009

~~BY FACSIMILE AND U.S. MAIL~~

Stephen L. Handley
Superintendent of Education
Hinds County School District
13192 Highway 18
Raymond, MS 39154
Fax: (601) 857-8548

Dear Mr. Handley:

We are writing as legal representatives of Tara Douglas, the mother and guardian of Alexander P. Hopkins, a youth enrolled in the Hinds County School District. We would like to make arrangements to view video related to an incident that resulted in Alexander's placement in Main Street Alternative School. This incident occurred on School Bus Number 06-10a on September 28, 2009 at about 4 p.m. Please find enclosed a release form from Ms. Douglas authorizing us to obtain this video on her behalf.

Ms. Douglas — through her legal representatives — is entitled to view the relevant video under your school district policy, the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and the Due Process Clause of the Fourteenth Amendment of the United States Constitution. The "Security Surveillance Camera Procedure," contained at page 42 of the 2009-2010 Hinds County School District Handbook, provides that "[b]ecause all video contains confidential student information in the form of images of actions by other students, the videos are not available for viewing except...by parents/guardians where behavior by their child may have consequences that would result in a long-term suspension (more than ten days)." As a result of the conduct allegedly contained in the requested video, Ms. Douglas's son was suspended from school for ten days and sent to an alternative school. Given the educational deprivation Alexander has suffered as a result of the alleged incident captured on the video, denying his guardians and representatives the ability to view the video is a violation of his rights to fundamental fairness and due process.

On October 22, 2009, the Assistant Superintendent, Dr. Delesicia Martin informed us that you are the appropriate person to approach regarding this matter. On that date, we went to the Hinds County School District's Central Office to view the relevant video footage; however, Dr. Martin denied our request.



We would greatly appreciate it if you could make arrangements for us to obtain a copy of video footage by the close of business on Monday, October 26, 2009. If you have questions regarding this request, please contact Poonam Juneja by telephone at (601) 948-8882 ext. 25, or by email at poonam.juneja@splcenter.org. We look forward to hearing from you promptly regarding this matter.

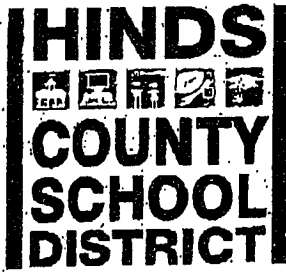
Sincerely,

A handwritten signature in cursive script, appearing to read "Poonam Juneja".

Poonam Juneja, Esq.
Sheila Bedi, Esq.

Enclosure.

Cc: James A. Keith, Attorney, Hinds County School Board.



Superintendent
Stephen L. Handley, Ed.D.

Assistant Superintendent
Delesicia M. Martin, Ed.D.

Hinds County School Board
Caroline Jacobs - District 1
Ivan Smith - District 2
Linda Laws - District 3
Angel Skinner - District 4
Dorothy Hicks, President - District 5

October 29, 2009

Ms. Poonam Juneja
921 North President Street
Suite B
Jackson, MS 39202

Dear Ms. Juneja:

I am in receipt of your request for a copy of a bus video from bus 06-10a on September 28, 2009. Please be aware that bus videos are re-cycable and are erased with new video after approximately 2-6 days. Bus videos are only pulled and retained when they become a critical piece of evidence for the due process afforded in a particular situation.

In the incident which involved Alexander Hopkins, the video was not pulled nor retained since there was a full written confession from the student, and the recommendation would not have resulted in a long-term suspension (more than ten days).

In conclusion, your statement that Dr. Martin denied your request is misleading in that based on the above stated reasons there is no video to view.

In accordance with your request during our telephone conversation on October 23, 2009, I am including a copy of HCSD Board Policy BCBI - Public Participation at Board Meetings.

Sincerely,

A handwritten signature in black ink that reads "Stephen Handley".

Stephen Handley, Ed.D.
Superintendent

Cc: Jim Keith

