

I. Findings of Fact

SEG advocates for students in matters regarding the identification and placement of District of Columbia students with disabilities. In its submission to the Special Master, SEG indicated that the dispute involved services rendered between June 2001 and July 2002. The documents submitted show disputes over amounts paid (or not paid) by DCPS in connection with services rendered to three students: JS, SG, and KD. Summaries of disputed amounts are as follows:

Student JS

A settlement agreement dated March 15, 2002, between DCPS and counsel for JS provided, in part, that "DCPS will fund the reasonable cost of independent Psycho-educational Psychological and Speech & Language Evaluations." Shortly thereafter, SEG procured those evaluations. The documents submitted by the SEG indicate that a psychoeducational evaluation was conducted on March 22, 2002, a psychological evaluation was conducted on March 23, and a speech evaluation was conducted over 3 days in early to mid April. The invoices for these evaluations were submitted to DCPS on May 7, May 14, and May 23, respectively. DCPS made partial payment on all three invoices pursuant to "the Directive of the Superintendent setting forth maximum hourly rates and total amounts to be paid by DCPS for Independent Education Evaluations" (see Special Master Attachment 4, September 12, 2002 letter of DCPS Chief Financial Office in response to request for information from Congresswoman Eleanor Holmes Norton). SEG thereafter filed for each invoice a "Request for Supplemental Review of Invoice(s) for Independent Educational Evaluations" but asserts that no responses have been received. Meanwhile, on June 21, Dr. Feathersson submitted an invoice for "special education expert services" for advocacy services provided to JS between December 11, 2001 and July 12,

2002. As of September 12, 2002, the date of DCPS' last statement on the subject, this request was "pending review."

JS	Service	Date of service	Date of invoice	Amount of invoice	Amount paid	Date of payment
	Psychoeducational	3/22/02	5/7/02	2250.00	540.00	8/14/02
	Psychological	3/23/02	5/14/02	2000.00	770.00	8/14/02
	Speech and language	4/1-15/02	5/23/03	1500.00	800.00	8/14/02
	Advocacy	12/01 – 7/02	6/21/02	5400.00	0	N/A

Student SG

In December 2001, an administrative due process hearing was held regarding SG. Although counsel for SG had requested that the Hearing Officer order independent speech/language and psychoeducational evaluations, that request was denied. Among other things, the Hearing Officer found that in February 2001, a DCPS school psychologist had evaluated SG, administering the Wechsler Individual Scale for Children-III, Wechsler Individual Achievement Test, Beery Visual Motor Integration Test, Kinetic Family Drawing, Draw a Person, and Three Wishes. However, an independent clinical evaluation was conducted in early January 2002 and an invoice was submitted to DCPS on February 8, 2002.

It appears that the multidisciplinary team at a meeting held on March 6, 2002 considered the clinical evaluation in determining SG's eligibility for special education services. However, a subsequent administrative due process hearing was conducted to determine whether yet another evaluation was needed to determine whether SG was dyslexic. The Hearing Officer ordered as follows: "The parent may obtain an independent evaluation for SG to address his dyslexia disability. DCPS shall fund the cost and expense of the evaluation. The cost shall be limited to paying reasonable rates for the evaluation." In footnotes to this decision, the Hearing Officer

stated "The parent through counsel stated that Dr. Robert Foster would conduct the testing. The test will consist of the Woodcock-Johnson cognitive" and that "reasonable rates for services are limited to no more than \$100 per hour." The psychoeducational evaluation was conducted on June 1, 2002. The written report developed after the evaluation indicated that the report was based on two Woodcock Johnson tests, five other types of tests, a parent conference and a review of records. An invoice in the amount of 1900.00 (for 19 hours) was submitted on June 13, 2002. On June 9, 2002, DCPS issued a check for the January clinical evaluation for approximately one-third of the amount invoiced.

On July 29, 2002, the DCPS Coordinator for Compliance wrote concerning the invoice for the "Woodcock-Johnson" evaluation in early June (Special Master Attachment 5). Citing the rulings of the Hearing Officers in both the December and May cases, DCPS disallowed all but 770.00 of the invoice. In this letter the Coordinator enclosed Superintendent Directive 530.6 that listed maximum amounts for various types of evaluations. Even though the Directive bears the date of March 20, 2002, this letter from the Coordinator (which arrived on August 5) was the first notice SEG had that maximum amounts had been imposed.¹ Pursuant to the Directive SEG thereafter filed for each invoice a "Request for Supplemental Review of Invoice(s) for Independent Educational Evaluations" but asserts that no responses have been received. Meanwhile, on May 3, 2002, Dr. Featherson submitted an invoice for special education expert services provided between October 1, 2001 and March 5, 2002 in the amount 4425.00 and on June 29, 2002 an invoice for the continuation of those services, from March 13, 2002 to June 20,

¹ This representation is consistent with the experience of the Special Master. As noted in a letter to the Superintendent dated August 21, 2002, the Special Master expressed concern that the Directive was not disclosed prior to mid-August despite numerous conversations with defendants about various payment issues.

2002 in the amount of 4,050.00. As indicated above, these invoices were "pending review" as of September 12, 2002.

SG	Service	Date of service	Date of invoice	Amount of invoice	Amount paid	Date of payment
	<i>Clinical</i>	2/2/02	2/8/02	2300.00	770.00	6/9/02
	Psycho-educational	6/1/02	6/13/02	1900.00	770.00	8/14/02
	Advocacy	10/01 - 3/1/02	5/3/02	4425.00	0	N/A
	Advocacy	3/13/ - 6/20/02	6/29/02	4050.00	0	N/A

Student KD

On April 30, 2002, Dr. Featherson submitted an invoice for "special education expert services" for advocacy services provided to KD between June 26, 2001 and August 13, 2001. As of the time of DCPS' last statement on the subject, this request was "pending review" (see Special Master Attachment 4).

KD	Service	Date of service	Date of invoice	Amount of invoice	Amount paid	Date of payment
	Advocacy	6/26/01 to 8/13/01	4/30/02	1575.00	0	N/A

II. Conclusions of Law

The October 11 Order states, in part:

[T]he following terms and conditions for payment of special education placements and services delivered during the remainder of the 2002-2003 school year and summer 2003 shall apply; and it is

FURTHER ORDERED that this Order applies to special education schools and residential facilities that serve class members, including

District of Columbia Public School (DCPS) students and wards of the District of Columbia, pursuant to a court order, administrative decision, notice of placement or any agreement with DCPS. This Order also applies to private providers of related services that service class member.

These two paragraphs serve as the cornerstone of the dispute process established by the parties to this litigation and approved by the Court. The jurisdiction of the Special Master under the October 11, 2002 Order of Reference is limited to the subject matter set forth in the dispute procedure. Unless otherwise agreed to by DCPS, the Court Order does not cover invoices for services rendered prior to October 2002.² In the September 3, 2002 letter and again at the hearing on September 9, DCPS counsel expressly declined to provide such agreement. While both SEG representatives and class counsel made compelling arguments for a resolution of the disputes on the merits, there is no jurisdictional basis for that conclusion. Inasmuch as the disputes are not within the jurisdiction of the Special Master based on the date of the services involved, it is unnecessary to address whether the Court Order of October 11, 2002 would cover disputes regarding payments rendered for the cost of independent evaluations.

III. Recommendations

For the foregoing reasons, the Special Master cannot recommend the entrance of an Order obligating DCPS to pay the invoices submitted. It is hoped, however, that a review of the facts provided above will lead DCPS to take the following action. First, DCPS should respond in good faith to the requests for payment of fees for advocates, as they have been "pending review" for over a year now. At the hearing, DCPS indicated that at about the time the invoices were submitted, the responsibility for the review of requests for fees was transferred from the Office

² Services provided after the summer of 2003 are covered by the August 25, 2003 Court Order extending the Payment Order of October 11, 2002.

of Mediation and Compliance to the Office of the General Counsel. In that office's review of the three invoices, it may be appropriate to take note of past practices: one of the documents introduced by SEG was a letter from DCPS dated November 3, 2000 in which SEG was informed that advocate fees were reimbursed at \$60.00 an hour (Special Master Attachment 6). The invoices submitted by Dr. Featherson were based on fees of \$150.00 per hour. Although SEG introduced vouchers showing that Dr. Featherson had been paid for advocacy services for six other students during 2001, there was no evidence that those services were compensated at any rate higher than \$60.00. At the rate of \$60.00 per hour, the fees for the special education expert would amount to \$6180.00 rather than \$15,450.00.

Secondly, it is hoped that DCPS will follow its own letter of September 27, 2002, with regard to the reimbursement of invoices for evaluations conducted prior to the issuance of the Superintendent's Directive (Special Master Attachment 7). As indicated above, this Directive was not provided to advocates, evaluators, service providers or class counsel until months after its "adoption." Moreover, DCPS initially sought to apply the Directive to evaluations conducted *prior* to the March 20, 2002, signature date. In the case here, at least one evaluation – the clinical evaluation for SG – took place in early January 2002, well before the Directive was initialed by the Superintendent. DCPS failed to provide any explanation as to why the full amount was not approved although according to the letter of September 12, DCPS had reviewed and forwarded the invoice to the Office of the Chief Financial Officer by February 20, 2002, a month before the existence of the Directive. Moreover, two of the evaluations took place almost contemporaneously with the Directive – the psychoeducational and psychological for JS on March 22 and 23. Clearly no evaluator could have known that the Superintendent had just signed a Directive limiting the amount of time that would be compensated when administering

evaluations on the following two days. As indicated above, no explanation has been provided to SEG as to why the Directive was applied despite the request for such an explanation. Indeed, the only explanation that DCPS has provided at all concerns the psychological for SG conducted in June 2002 in which DCPS concluded – correctly in my opinion – that the HOD did not authorize such an extensive evaluation.

In view of the fact that DCPS has elected to decline participation in the dispute process set forth in the October 11, 2002 Order, SEG is free to pursue what other remedies may be available at law or equity.

Respectfully submitted,

A handwritten signature in cursive script, reading "Elise Baach", written in black ink. The signature is fluid and somewhat stylized, with a horizontal line underneath the name.

Elise Baach
Special Master

Dated: November 14, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Report and Recommendations of the Special Master, regarding the claim of The Special Education Group, was mailed, postage prepaid, on November 14, 2003, to the following:

Clarence H. Featherson, Esquire
7600 Georgia Avenue, N.W., Suite 410
Washington, D.C. 20012

Daniel Rezneck, Esq.
Office of Corporation Counsel
441 Fourth St., N.W., 6th Floor-South
Washington, D.C. 20001

Lee Rideout, Esq.
Office of General Counsel
District of Columbia Public Schools
825 North Capitol Street, N.E.
Washington, D.C. 20002

Kelly Bagby, Esq.
University Legal Services
220 I St., N.E. Suite 130
Washington, D.C. 20002



Elise T. Baach
Special Master

Date: November 14, 2003

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
)	
v.)	
)	
DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 1

November 14, 2003

THE SPECIAL EDUCATION GROUP, INC.*A Non-Profit Organization***7705 Georgia Avenue, NW, Suite 102****Washington, DC 20012****(202) 387-2659****(202) 387-1854 Fax**

July 28, 2003

Elise T. Baach, Esq.
Special Master
One Thomas Circle, Suite 200
Washington, DC 20005-5803

Dear Ms. Baach:

This letter is to request a proceeding before you to resolve the non-payment and reduced payment of The Special Education Group, Inc. by the District of Columbia Public Schools for services rendered June 2001 through July 2002, to DCPS students covered by the Petties case.

The disputed total of \$20,750.00 was covered by DCPS Settlement Agreements and HOD's. All invoices were submitted to the DCPS Special Education Mediation and Compliance Office within forty five days after services were rendered. Each service provider of The Special Education group submitted individual, detailed invoices listing dates and services provided for each student covered by the Petties case.

The first requests for payment were made in April 2002 and May 2002 to DCPS Judith Smith's office. After a lack of responses, we followed up our oral requests for payment with letters to Ms. Mary Gill and Superintendent Vance. In June 2002, the first payment we received was significantly reduced by DCPS without explanation, and four months after the invoice was submitted to DCPS. Subsequent payments received by The Special Education Group's service providers were also significantly reduced. On August 5, 2002, Clarence H. Featherson, Esq., our Group's attorney, received a letter from DCPS Jeffrey Kaplan, Coordinator for Compliance notifying and enclosing a recently implemented "Directive" listing hourly rates and amounts to be paid by DCPS for independent educational evaluations. Even though we had completed all evaluations and services rendered months before the new payment directive was received on August 5, 2002, DCPS has refused to provide the balances of payment due in accordance with invoices submitted.

Although we immediately submitted a letter of dispute regarding reduced payments and non-payment for our educational expert's services rendered, the District of Columbia Public Schools have never responded. Follow-up letters and phone calls to Superintendent Vance, Jeffrey Kaplan, and Robert Morales have not been answered.

Having been informed that other independent educational experts have been paid by DCPS, I inquired to Mr. Morales, then – CFO, the reasons for non-payment to our Group's educational expert. Mr. Morales advised that neither Judith Smith or Ray Bryant would approve the invoices for payment.

Since the total payment due to our group is currently more than one year past due, we are requesting that you set a date for the hearing and notify all parties. We look forward to your reply.

Sincerely,



Olivia J. Featherson, Ed.D.
Executive Director

Copy: Elizabeth Greczek, Esq.
University Legal Services, Inc.

Clarence Featherson, Esq.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
)	
v.)	
)	
DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 2

November 14, 2003



**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS**

Office of the Superintendent

Office of the General Counsel

825 North Capitol Street, N.E., 9th Floor

Washington, D.C. 20002-4232

202-442-5000 Fax: 202-442-5098

www.k12.dc.us

Via Email

September 4, 2003

Elise Baach, Esq.
One Thomas Circle, NW
Washington, DC 20005

**Re: Petties, et al. v. D.C., et al.
Preliminary Statement/The Special Education Group, Inc.**

Dear Ms. Baach:

This matter is not properly before the Special Master. During the time period covered in the July 28, 2003 letter to the Special Master from the Special Education Group, Inc. ("SEG"), invoices were submitted by SEG for payment for independent educational evaluations, expert witness fees and attorney fees. The October 11, 2002 order applies to private providers of special education and related services that serve class members. If the claims relate to independent educational evaluations, DCPS' position is that those claims should be dismissed. The provision of independent educational evaluations does not constitute special education nor does it constitute related services as defined in 34 C.F.R. 300.24 and 300.26. Therefore, the attempt to resolve payment issues for such services under the October 11, 2002 order is inappropriate.

The July 28, 2003 letter from SEG is not clear as to the actual claims at issue. However, if SEG's claims encompass attorney fees or expert witness fees, the District would also assert that the Special Master lacks jurisdiction to hear those matters. As stated above, the October 11 order applies to special education and related services. Attorney fees and expert witness fees are clearly not subject to the payment provisions of the October 11, 2002 order.

As it relates to the independent educational evaluations, Superintendent's Directive 530.6

Preliminary Statement
Special Education Group
September 4, 2003
Page 2 of 2

provides for the review by DCPS of amounts paid to providers of independent educational evaluations. Any dispute as to the amount paid to a provider should be handled pursuant to the Directive, and not under the October 11, 2002 order. Again, because SEG's request for resolution is vague as to the actual services in dispute, the District is at a disadvantage in providing more specific information or in asserting any additional defenses to such claims.

Most importantly, assuming arguendo that the October 11, 2002 order grants jurisdiction to the Special Master over the substantive issues (independent educational evaluations, expert witness fees, attorney fees), the Special Master still lacks jurisdiction to hear the claims because they are based on services rendered prior to the October 11, 2002 order. Such order cannot be applied retroactively without the consent of all parties. DCPS does not grant its consent to the resolution of these issues in this forum. As the Special Master is well aware, DCPS has assented to the jurisdiction of the Special Master in the past. However, because the substance and nature of SEG's claims themselves fall outside the scope of the October 11 order, and because other fora exist for redress, such consent in this matter will be withheld.

Based on the foregoing, DCPS asserts that the Special Master lacks jurisdiction to adjudicate these matters based on both substantive and procedural grounds, and respectfully requests that the proceeding scheduled for September 9, 2003 be dismissed and cancelled accordingly.

Sincerely,

Lee Rideout
Attorney Advisor

cc: University Legal Services
Special Education Group (via facsimile)
Daniel Rezneck

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
)	
v.)	
)	
DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 3

November 14, 2003

THE SPECIAL EDUCATION GROUP, INC.

A Non-Profit Organization

7705 Georgia Ave, NW, Suite 102

Washington, DC 20012

(202)-387-2659

(202)-387-1854 Fax

September 3, 2003

Elise T. Baach, Esq.
Special Master
One Thomas Circle, Suite 200
Washington, DC 20005

Dear Ms. Baach:

The proceeding requested before you is to resolve the issues of non-payment, reduced payment and significantly delayed payments (Petties) to the Special Education Group, Inc. by the District of Columbia Public Schools for services rendered June 2001 through July 2002, to DCPS students covered by the Petties case. All of the services provided to DCPS students were timely and in accordance to HODs and DCPS Settlement Agreements.

Even though the District of Columbia Public Schools have persistently and chronically delayed payment for services provided by The Special Education Group, despite timely invoices submitted to Judith Smith's office, telephone calls and handwritten communications requesting payment to Judith Smith, Jeff Kaplan, Mary Gill, and Dr. Paul Vance have consistently been ignored and unanswered. When our attorney, Clarence H. Featherson, Esq., called Dr. Vance's office in early June 2002, to request a meeting with Vance to discuss and resolve our chronic payment debacle, Dr. Vance's executive assistant advised Mr. Featherson that he had to request a meeting in a letter and fax the request to his office. After faxing the letter (June 11, 2002) to Vance's office and waiting a week for a response, Mr. Featherson called Dr. Vance's office inquiring about a date for a meeting. The executive assistant responded that someone would get back to him. Unfortunately, two additional phone calls to Dr. Vance's office by Mr. Featherson still resulted in no phone or written response from Dr. Vance. Thus, the reduced, non-payment, and delayed payment debacle continued and remains unresolved today.

Although The Special Education Group submitted a copy of Dr. Robert Foster's Psychological Evaluation Report (Stephen Galberth: conducted on 01-12-02) and invoice on 02-08-02 to Judith Smith's office, we received a "reduced" payment from DCPS of \$770.00 on June 9, 2002. The invoice amount submitted for the 01-12-02 Psychological Evaluation was \$2,300.00; the balance still due is \$1530.00. Written and phone requests for the balance due have been ignored and denied. On August 5, 2002, Mr. Featherson, received a letter dated 07-29-02 from Jeff Kaplan notifying that a new directive regarding new rates and total amounts implemented by DCPS after March 20, 2002, was in effect. However, even though we had completed four additional independent evaluations and

submitted the reports and invoices to Judith Smith's office months before receipt of the "new" directive, DCPS have refused to provide payments for the invoice amounts submitted 02/02, 05/02, and 06/02. Furthermore, we completed the forms that Kaplan enclosed which were requests for supplemental review of invoices for services delivered prior to receipt of the 03-20-02 Directive. Although we completed a "Review of Invoice" form for all five independent evaluations (submitted prior to the receipt of the new Directive) and submitted them to Mr. Kaplan, immediately, we have never received any response from Kaplan. Telephone calls to Kaplan, Judith Smith, Veleter Mazyck, Esq., and Paul Vance regarding the balances for evaluations completed 01/02, 03/02, 04/02, and 06/02 by our clinicians have been unanswered to this date. The following are the payments paid to Dr. Robert Foster and balances due from the invoice amount for Psychologicals completed:

Completed: 02/02, Paid 06/02: \$770.00, Bal. due \$1,530.00

Completed: 05/02, Paid 08/02: \$1,540.00, Bal. due \$710.00

Completed: 05/02, Paid 08/02: \$770.00, Bal. due \$1,230.00

Completed: 06/02, Paid 08/02: \$770.00, Bal. due \$1,130

Total balance due Dr. Robert Foster \$4,600.00

The following is due Ms. Celestina Edmonds for a Speech- Language Evaluation completed: Completed: 05/02, Paid 08/02: \$800.00, Bal. due \$700.00

A request in a letter dated 08-05-02 to Dr. Vance and Ms. Mazyck for a meeting to resolve the reduced payments by Mr. Featherson, was never answered. Follow-up calls to both offices were never taken or returned.

Telephone calls and letters to Judith Smith, Paul Vance, Mary Gill, and Veleter Mazyck, Esq. concerning non-payment to Dr. Featherson for special education expert services rendered 06/01-07/02 for DCPS students covered by Petties, were never responded to. The total due Dr. Featherson for services provided to DCPS students: Keith Daughtry, Stephen Galberth, and Jamal Singleton is: \$15,450. Please see exhibits dated 09/18/02 (to Judith Smith), 11/06/02 (to Robert Morales), and 12/09/02 (to Dr. Paul Vance) for specific payment due for each student. Also, please see enclosed Exhibits of all invoices submitted to Judith Smith and Robert Morales. As the Special Education Expert, I attended all IEP Meetings with the parents, provided essential services on behalf of the students and parents as a professional advocate, and presented all independent evaluation reports by Dr. Foster and Ms. Edmonds at the MDT/IEP Meetings. All of the Evaluation reports were accepted and used by the DCPS students to provide special education services for the students. No evaluation report was ever challenged or rejected by the DCPS MDT/IEP Teams. As a matter of fact, the Evaluation Reports were commended for their comprehensiveness. Please read copies of Reports enclosed.

Furthermore, I was never notified by DCPS that Special Education Expert/Advocate Services were no longer being paid. In a letter from Mr. Robert Morales, CFO, to Congresswoman Eleanor H. Norton dated 09/12/02, in response to her inquiry on my behalf, Mr. Morales stated that payment was "still pending review". See Exhibit dated 09/12/02 from Morales enclosed. I was even informed in May 2002, by Dr. Mildred Brown, who provided expert services/advocacy for Attorney Donovan Anderson's clients, that Judith Smith had been and was continuing to pay her invoices for services rendered at her billed rate of \$160.00 per hour. Despite numerous phone calls, letters, and voice messages concerning non-payment for invoices I submitted May 2002

and July 2002, I have never received any response from Judith, Kaplan, Gill, Mazyck, or Vance. Please see enclosed letters and fax cover sheets. Finally, telephone calls and faxes to Mr. Morales, CFO, in November, resulted in a response. After he attempted to have my invoices approved in November, Mr. Morales called me on December 9, 2002, to report that Judith Smith and Ray Bryant had refused to approve any of my invoices. Thus, Mr. Morales advised that he was unable to issue payment without Judith's or Bryant's approval.

Enclosed are copies of prior payments that I received for special education expert/advocate services in 2001 Judith Smith replaced Paula Perelman. As I stated, I have never received any written or oral communication that DCPS no longer provides payments to Experts/Advocates for services rendered. All letters and documents enclosed are provided as evidence to support the issues I am requesting a resolution.

Please be advised that Clarence H. Featherson, Esq, The Special Education Group's Attorney, will represent me at the Invoice Dispute Hearing before you. Thank you for this opportunity for resolution.

Sincerely


Olivia J. Featherson, Ed D.
Executive Director

Hand Delivered Copies:

Veleter Macyck, Esq.
Office of the General Counsel

Daniel Reznck, Esq.
Office of Corporate Counsel

Clarence H. Featherson, Esq.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
)	
v.)	
)	
DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 4

November 14, 2003

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES

AVIATION

ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY
MANAGEMENT



COMMITTEE ON
GOVERNMENT REFORM

SUBCOMMITTEES

RANKING MINORITY MEMBER,
DISTRICT OF COLUMBIA

CIVIL SERVICE AND
AGENCY ORGANIZATION

Congress of the United States
House of Representatives
Washington, D.C. 20515

September 23, 2002

9/23/02

Ms. Olivia J. Featherstone
The Special Education Group
7705 GEORGIA AVE NW STE 102
Washington, DC 20012-1618

Dear Ms. Featherstone:

The attached letter was received in response to my inquiry on your behalf. I hope the information provided is helpful.

If I may be of further help on any matter that falls within my federal legislative and administrative jurisdiction, please feel free to get in touch with me.

Sincerely,

Eleanor Holmes Norton
Member of Congress

ehn:lj

Enclosure

PS: The Congressional District Office of Eleanor Holmes Norton has relocated to: 529 14TH ST NW STE 900, Washington, DC 20045-1928.

815 15TH STREET, N.W., SUITE 100
WASHINGTON, D.C. 20005-2201
(202) 783-5065
(202) 783-5211 (FAX)

2136 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515-5101
(202) 225-8050
(202) 225-3002 (FAX)
(202) 225-7829 (TDD)
www.house.gov/norton

2041 MARTIN L. KING AVENUE, S.E.
SUITE 300
WASHINGTON, D.C. 20020-5734
(202) 678-8900
(202) 678-8844 (FAX)

Speech/Language Pathologist fees to: **Ms. Celestina Faulks-Edmonds, S/L Pathologist**

- ◆ ***Jamal Singleton (student) – Speech/Language Assessment***
Approved for payment - **\$800.00** pursuant to the Directive. Invoice submitted to OCFO on July 8, 2002.

Special Education expert fees due **Dr. Olivia J. Featherstone, Expert**

- ◆ ***Stephen Galberth (student) – Special Education Expert Services***
Invoice received June __, 2002 received August 5, 2002. All invoices for expert witness fees submitted during the month of June or thereafter are still pending review unless specifically agreed upon in a settlement agreement.
- ◆ ***Keith Daughtry (student) – Special Education Expert Services***
Invoice received June 19, 2002. All invoices for expert witness fees submitted during the month of June or thereafter are still pending review unless specifically agreed upon in a settlement agreement.

Attorney fees due **Mr. Clarence H. Featherson, Esq.**

- ◆ ***Stephen Galberth (student) – Attorney Fees***
Invoice received June 4, 2002. All invoices for attorneys' fees received during the month of June or thereafter are still pending review unless specifically agreed upon in a settlement agreement.
- ◆ ***Keith Daughtry (student) – Attorney Fees***
Invoice received June 19, 2002. All invoices for attorneys' fees received during the month of June or thereafter are still pending review unless specifically agreed upon in a settlement agreement.

If you have any questions or require additional information, please contact me directly at 442-5214.

Sincerely,



Robert A. Morales
Chief Financial Officer

RAM:sb

cc: Paul Vance, Superintendent, DCPS

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
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v.)	
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DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 5

November 14, 2003

DCPS
Office of Mediation & Compliance
825 North Capitol Street, NE
Washington, DC 20002

SINGLE PIECE 08/03/02

DS 240 PRST FCM SUB MD 208 08-03-02

Clarence Featherston
7600 Georgia Avenue, N.W.
Suite 410
Washington, DC 20012

2001 SINGLE PIECE





**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS**

Division of Special Education
825 North Capitol Street, N.E., 6th Floor
Washington, D.C. 20002-4232
202-442-4800, fax: 202-442-5518
www.k12.dc.us

July 29, 2002

Clarence H. Featherson, Esq.
7600 Georgia Avenue, N.W.
Suite 410
Washington, D.C. 20012

Re: ~~Stephen Galberth~~ Psycho-educational IEE

Dear Mr. Featherson:

This office is in receipt of a June 13, 2002 invoice for a psycho-educational evaluation conducted by The Special Education Group, Inc. concerning the above-referenced student.

Pursuant to a Hearing Officer's Determination (HOD) dated May 23, 2002, DCPS was ordered to pay for a Woodcock-Johnson cognitive test "to address the [student's] dyslexia disability". See HOD at 3, Order 1 and footnote 1. As such, pursuant to rates set forth in a Directive from the Superintendent of Schools which I have enclosed, DCPS will pay and forward to your office the sum of Seven Hundred and Seventy Dollars (\$770.00) for ordered services encompassed by the June 13, 2002 invoice.

Please note, DCPS was not ordered to fund a full psycho-educational battery and will, therefore, not fully fund such an evaluation. Further, an HOD in this matter dated December 26, 2001 found a previously administered DCPS psycho-educational evaluation to be appropriate, thus denying parent's request for an independently funded psycho-educational evaluation. See December 26, 2001 HOD at 4 and 5.

As you are aware, DCPS has previously tendered to your office the sum of Seven Hundred and Seventy Dollars (\$770.00) for ordered services, a clinical evaluation, regarding the above-referenced student. This payment represents the maximum allowed for such services pursuant to the aforementioned directive.

If you have any questions regarding this matter, please feel free to contact this office at (202) 442-5490.

Sincerely,

Jeffrey H. Kaplan
Coordinator for Compliance

Encl.

cc: Mary Gill/Judith Smith

DIRECTIVE

DIRECTIVE

DISTRICT OF COLUMBIA PUBLIC SCHOOLS
825 North Capitol Street, NE
Washington, DC 20002

Originating Office: OFFICE OF THE SUPERINTENDENT	Number: 530.6 <i>P.L.V.</i>
	Date: March 20, 2002
Subject : Maximum Hourly Rates and Total Amounts to be paid by DCPS for Independent Educational Evaluations	
Board Rule Reference: 5 DCMR, 3021.20	

The maximum hourly rates and maximum total amounts, commensurate with customary and prevailing rates for such services, which are to be paid by the District of Columbia Public Schools (DCPS) for independent educational evaluations are determined and established as follows:

<u>Evaluation</u>	<u>Max. Hr. Charge Rate</u>	<u>Max. Total Amounts</u>
Psychological cognitive	\$ 110.00	\$ 770.00
Educational	110.00	770.00
Psycho-educational	110.00	1540.00
Clinical psychological	110.00	770.00
Occupational therapy	80.00	560.00
Physical therapy	80.00	560.00
Speech and language	80.00	800.00
Audiological	60.00	120.00
Social work	110.00	220.00
Neuropsychological	110.00	1650.00
Psychiatric	110.00	770.00

Exceptions to the rates established by the Superintendent or designee may be allowed where the requesting party can demonstrate unique circumstances justifying the payment of costs exceeding the established maximum rates. The parties will attempt, in good faith, to resolve any disputes related to the established rates. Any disputes to the amount paid by DCPS must be submitted in writing to the DCPS Office of Special Education, Office of Mediation and Compliance within ten (10) calendar days of payment.



Special Education Mediation and Compliance

Student: Stephen Galbert
Received: 7/2/02

Related Services

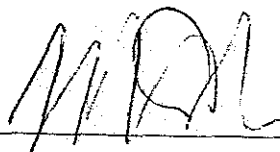
PETTIES

- Reimbursement
- Travel
- Tutoring
- Evaluation(s)
- SA: _____ HOD: 5/13/02
- Tuition
- Miscellaneous Expenses

Invoice # _____ Dates of Service 6/1/02

SETS History

Psycho-Educational Eval \$ 1900.00

Approved:  7/31

Amount: \$ 770.00

Remit To: Claudia Featherston

Forward to: Medicaid Office

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

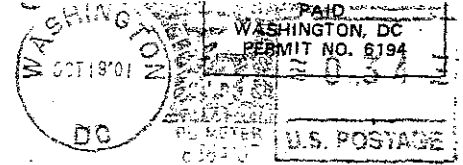
NIKITA PETTIES, et al.,)	
)	
Plaintiffs,)	Civil Action No. 95-0148 (PLF)
)	
v.)	
)	
DISTRICT OF COLUMBIA, et al.)	
)	
Defendants.)	

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 6

November 14, 2003

WASHINGTON, DC 20001



DR. OLIVA J. FEATHENSON
7705 GEORGIA AVE , N.W.
#102
WASHINGTON DC 20012
USA

VOUCHER	FIN AG	INVOICE	INVOICE DATE	REF DOC	AMOUNT
D1014212	GAO	III, LEWIS, JOE	10/11/2001		\$1,929.00
D1014214	GAO	BRIDGES, DONNEL	10/11/2001		\$2,220.00
D1014215	GAO	WISE, CONNELL	10/11/2001		\$3,207.00
D1014216	GAO	K. ALEXANDER	10/11/2001		\$990.00

ISSUED BY: GA2 DCPS - CFO'S OFFICE AND A/P (202)555-1212

CHECK DATA
ID: 121 005447767 DATE: 10/19/2001 AMOUNT \$8,346.00

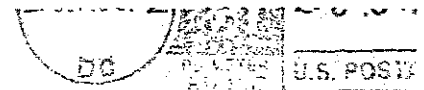
GOVERNMENT OF THE DISTRICT OF COLUMBIA

VOUCHER	FIN AG	INVOICE	INVOICE DATE	REF DOC	AMOUNT
VXSH2239	GAO	THOMAS, DANIEL	09/22/2000		\$2,800.00
VXSH2240	GAO	DAUGHTRY, JR. K.	07/21/2000		\$2,286.00
VXSH2241	GAO	BRIDGES, DONNEL	06/02/2000		\$1,140.00
VXSH2242	GAO	LWEIS, III, JOE	02/26/2000		\$4,227.00
VXSH2243	GAO	WISE, MAUREEN	02/29/2000		\$3,690.00
VXSH2244	GAO	ALEXANDER, KEN.	09/22/2000		\$2,800.00

ISSUED BY: GAO DISTRICT OF COLUMBIA PUBLIC SCHOOLS (202)442-5330

CHECK DATA
 ID: 121 005298461 DATE: 03/01/2001 AMOUNT \$16,943.00

GOVERNMENT OF THE DISTRICT OF COLUMBIA



DR. OLIVA J. FEATHENSON
 7705 GEORGIA AVE , N.W.
 #102
 WASHINGTON DC 20012
 USA

**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS**

Division of Special Education
825 North Capitol Street, N.E., 6th Floor
Washington, D.C. 20002-4232
202-442-4800, fax: 202-442-5518
www.k12.dc.us

Received 1/8/01

November 3, 2000

Clarence H. Featherston
Attorney at Law
7600 Georgia Avenue NW
Suite 410
Washington, DC 20012

Re: Anwar Scott

Dear Sir:

Please be advised that I have authorized payment in the amount of \$2058.00 in Advocate fees for the above referenced student. (Advocates are paid at \$60.00 per hour). Also, deductions in the amount of \$4832.00 were made for disallowed line items indicated on the enclosed copy of your invoice. If you have further questions, please do not hesitate to call.

Sincerely,

Paula Perelman
Director for Mediation and
Compliance

/trl

Children First

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NIKITA PETTIES, et al.,)

Plaintiffs,)

v.)

DISTRICT OF COLUMBIA, et al.)

Defendants.)

Civil Action No. 95-0148 (PLF)

**REPORT AND RECOMMENDATIONS
OF THE SPECIAL MASTER**

SPECIAL MASTER ATTACHMENT 7

November 14, 2003



**DISTRICT OF COLUMBIA
PUBLIC SCHOOLS**

Office of the Superintendent

Office of the General Counsel

825 North Capitol Street, N.E., 9th Floor

Washington, D.C. 20002-4232

202-442-5885 Fax: 202-442-4026

www.k12.dc.us

Via Regular Mail

September 27, 2002

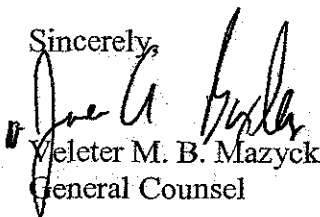
Re: Superintendent's Directive 530.6

Dear Independent Evaluators and Members of the Special Education Bar:

Please be advised that Superintendent's Directive No. 530.6 effective March 20, 2002, which provides guidelines for hourly and total reimbursement rates for independent educational evaluations, will not be retroactively applied to evaluations administered prior to March 20, 2002. The standard of review for those independent evaluations will be one of reasonableness.

If you received reimbursement for evaluations provided prior to March 20, 2002, which you believe applied the maximum rates set forth in Directive No. 530.6; you may contact Jeffrey Kaplan, Compliance Coordinator of the Office of Special Education, in writing to request another review in light of this correspondence. A form to be submitted with that request and a copy of the directive are enclosed for your use and information.

Sincerely,


Welter M. B. Mazyck
General Counsel

Enclosures

cc: Paul L. Vance, Superintendent
Ray Bryant, Chief of Special Education
Robert Morales, Chief Financial Officer
Anne Gay, Assistant Superintendent, Division of Special Education
Alisa Reff, Blackman/Jones Class Counsel
Tammy Seltzer, Blackman/Jones Class Counsel
Charles Moran, Blackman/Jones Class Counsel
Elise Baach, Special Master

**Request for Supplemental Review of Invoice(s)
for Independent Educational Evaluations
(Services Delivered Prior to March 20, 2002)
Please Type or Print**

Subject Student Name: _____ **DOB:** _____

Date of Evaluation: _____

Payee Name: _____ **Payee Phone No.:** _____

Payee Address: _____
_____ *Check if additional payment,
if any is found to be due, is to be
made payable to this original payee*

Provider Name: _____ **Provider Phone No.:** _____

Provider Address: _____
_____ *Check if additional payment,
if any is found to be due, is to be
made payable to the provider*

Invoice No.: _____ **Date of Prior Payment:** _____

Invoice Amount: \$ _____ **Amount of Prior Payment:** \$ _____

Attach copy of original invoice and forward to:

**Jeff Kaplan, Compliance Coordinator
Office of Special Education
6th Floor
825 N. Capitol Street, N.E.
Washington, D.C. 20002**

DIRECTIVE

DIRECTIVE

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS
825 North Capitol Street, NE
Washington, DC 20002**

Originating Office: OFFICE OF THE SUPERINTENDENT	Number: 530.6 <i>P.L.V.</i>
Subject : Maximum Hourly Rates and Total Amounts to be paid by DCPS for Independent Educational Evaluations Board Rule Reference: 5 DCMR, 3021.20	Date: March 20, 2002

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