

Dated: April 7, 2009

Goetz Fitzpatrick LLP
One Penn Plaza – Suite 4401
New York, NY 10119
212-695-8100
Attorneys for the Petitioner Leah Donn

Ronald D. Coleman



Please take notice that such rules require that an answer to the petition must be served upon the petitioner, or if he be represented by counsel, upon his counsel, within 20 days after the service of the appeal, and that a copy of such answer must, within five days after such service be filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.

If an answer is not served and filed in accordance with the provisions of such rules, the statements contained in the petition will be deemed to be true statements, and a decision will be rendered thereon by the Commissioner.

You are hereby required to appear in this appeal and to answer the allegations contained in the attached petition. Your answer must conform with the provisions of the regulations of the Commissioner of Education relating to appeals before the Commissioner of Education, copies of which are available from the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.

TO THE BOARD OF EDUCATION OF THE
NEW YORK CITY SCHOOL DISTRICT:

In the Matter of LEAH DONN,
on behalf of AVROHOM DONN, from
action of the Board of Education
of the New York City School District
regarding the denial of statutorily required
bus service.

STATE OF NEW YORK
STATE EDUCATION DEPARTMENT

NOTICE OF
PETITION

pm.

and belief, the District's buses continue to pick up children from their schools until 4:30 the time the District picks up children from other schools in the area. To my information

7. This is a reasonable dismissal time, and does not vary substantially from

6. Avrohom is dismissed from school at 5:00 pm.

District ("District") buses, I drive him to school in the morning.

5. Although Avrohom is eligible to be bused on New York City School

4. Avrohom's school is over one and one-half miles from my house.

Parkway, also in Brooklyn.

3. Avrohom attends the Mirrer Yeshiva Ketena, located at 1791-95 Ocean

10 years old.

2. My son's name is Avrohom Donn, and he resides with me. He is currently

1. My name is Leah Donn and I reside at 619 Avenue H, in Brooklyn.

TO THE COMMISSIONER OF EDUCATION:

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**VERIFIED
PETITION**

8. New York State law provides that if bus service is provided to children in the District, it shall be "offered equally to all children in like circumstances". (Education Law, §3635[1][a].)
9. The Commissioner has previously determined that a half-hour variance from a district's dismissal time fits within the statute's "like circumstances" requirement. *Appeal of Frasier*, 35 Ed. Dept. Rep. 499, Decision No. 13,612.
10. Therefore, because the District provides bus service for other children until 4:30 pm, and because my son Avrohom Donn's dismissal time is within the 30 minute time frame established by precedent to be considered "like circumstances", the District is required to provide him bus service home.
11. On December 8, 2008, I mailed a letter to Matthew Berlin, the Director of the Office of Pupil Transportation, requesting bus service home in the afternoon for Avrohom, in accordance with the statute and the Commissioner's decisions. A copy of that letter is attached as Exhibit A.
12. I did not receive a written response to my letter of December 8, 2008.
13. On January 27, 2009, I mailed another letter to Mr. Berlin, again requesting bus service for Avrohom Donn. A copy of that letter is attached as Exhibit B.
14. In response to my second letter, I received a phone call from Rabbi Moshe Ausfresser, who identified himself as an employee of the Office of Pupil Transportation.
15. On March 17, 2009, I talked with Rabbi Ausfresser by phone. He told me that the District would not be providing busing home from school for Avrohom.
16. Rabbi Ausfresser told me that as a matter of state law, the District was not required to provide busing after 4:30 pm.

Ronald D. Coleman
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212-695-8100

Attorney for the Petitioner:

Leah Donn

Leah Donn

Dated: April 2, 2009

1. That the District bus Avrohom Donn and similarly situated children home from school; or
2. That the District subcontract for busing home for Avrohom Donn and similarly situated children; or
3. That the District reimburse me and other similarly situated parents for the costs of busing our children home;
4. An oral argument in front of the Commissioner to present this matter; and
5. Such other relief as the Commissioner deems just and proper.

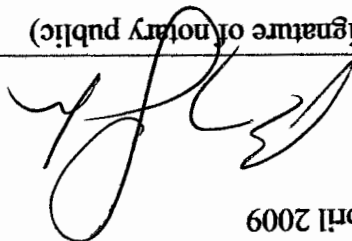
WHEREFORE, Leah Donn respectfully requests:

declined to do.

17. I asked Rabbi Ausfresser to put that determination in writing, which he

BARRY LAUFER
Notary Public, State of New York
No. 0324435455
Qualified in Kings County
Commission Expires March 10, 2010

(Signature of notary public)

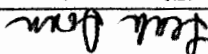


April 2009

before me this 2 day of

Subscribed and sworn to

(Signature)



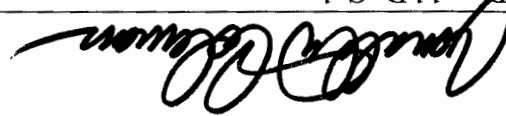
Leah Donn being duly sworn deposes and says that she is petitioner in this proceeding;
that she has read the annexed petition and knows the contents thereof; that the same is
true to the knowledge of deponent except as to the matters therein stated to be alleged
upon information and belief, and as to those matters she believes it to be true.

STATE OF NEW YORK:
:ss.
COUNTY OF QUEENS:

Dated: April 7, 2009

Goetz Fitzpatrick LLP
One Penn Plaza – Suite 4401
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212-695-8100
Attorneys for the Petitioner Leah Donn

Ronald D. Coleman



Ronald D. Coleman, an attorney at law of this state, duly affirming, deposes and says that he is over the age of eighteen years and is not a party in this proceeding; that on the seventh day of April 2009, at 100 Church Street, in the City of New York, County of New York, State of New York, he served the annexed Verified Petition of Leah Donn on the Law Department of the City of New York, counsel for the Board of Education of the New York City School District, by delivering to and leaving with said Law Department Clerk as indicated on the clerk's stamp, at said time and place a true copy thereof. Deponent further says he knew the person so served to be the authorized employee of the clerk in said district and who is duly authorized to accept service.

**AFFIRMATION OF
SERVICE OF PETITION**


In the Matter of LEAH DONN,
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**STATE OF NEW YORK
STATE EDUCATION DEPARTMENT**

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CITY OF N.Y. LAW DEPART.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS SECTION

2009 APR 7 PM 2 28

NOTICE OF
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