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August 17, 2016

Parent



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In re: Tacoma School District
OSPI Cause No. 2016-SE-0047
OAH Docket No. 04-2016-OSPI-00060

Dear Parties:

Enclosed please find the Findings of Fact, Conclusions of Law, and Order in the above-referenced matter. This completes the administrative process regarding this case. Pursuant to 20 USC 1415(i) (Individuals with Disabilities Education Act) this matter may be further appealed to either a federal or state court of law.

After mailing of this Order, the file (including the exhibits) will be closed and sent to the Office of Superintendent of Public Instruction (OSPI). If you have any questions regarding this process, please contact Administrative Resource Services at OSPI at (360) 725-6133.

Sincerely,

A handwritten signature in cursive script that reads "Johnette Sullivan".

Johnette Sullivan
Administrative Law Judge

cc: Administrative Resource Services, OSPI
Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator

ORIGINAL

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

IN THE MATTER OF:

OSPI CAUSE NO. 2016-SE-0047

OAH DOCKET NO. 04-2016-OSPI-00060

TACOMA SCHOOL DISTRICT

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

A hearing in the above-entitled matter was held before Administrative Law Judge (ALJ) Johnette Sullivan in Tacoma, Washington, on June 13-15, 2016. The Parent of the Student whose education is at issue¹ appeared, and was represented by Sara Zier, attorney at law. Paul Alig, attorney at law, also appeared on behalf of the Parent. The Tacoma School District (District) was represented by Carlos Chavez, attorney at law. Jonathan Bell, Director of Student Services, appeared for the District. Renee Hemmasi, Assistant General Counsel, also appeared for the District.

STATEMENT OF THE CASE

Procedural History

On April 25, 2016, the Parent filed a Request for Special Education Due Process Hearing with the Office of Superintendent of Public Instruction (OSPI). OSPI assigned the request Cause No. 2016-SE-0047. Office of Administrative Hearings (OAH) assigned the request Docket No. 04-2016-OSPI-00060. On May 5, 2016, the District filed its Response to Parent's Hearing Request.

The ALJ addressed the issue of stay-put pending hearing at a Prehearing Conference held May 10, 2016. See Order on Stay-Put dated May 13, 2016. At a Prehearing Conference held May 18, 2016, the parties agreed to a statement of issues and hearing dates of June 6, June 16 and 17, 2016. See Prehearing Order dated May 20, 2016. The parties later informed the ALJ they had agreed to hearing dates of June 13, 14 and 15, 2016, and a hearing location at the District's Central Administration Building. See Second Prehearing Order and Notice of Hearing dated May 24, 2016. On May 27, 2016, the Parent requested an amendment of the issues statement. The District stated on the first day of hearing, June 13, 2016, that it had no objection to the amendment. The ALJ granted the amendment on the record. On the afternoon of June 15, 2016, the Parent became ill. She asked permission to leave and waived her right to be physically present for the remaining hours of the hearing. The Parent consulted with her attorneys about other options and she and her attorneys agreed to proceed with the questioning of the final two witnesses in Parent's absence. The District did not object to Parent's request and waiver. The ALJ granted the request and accepted the waiver on the record. After the presentation of evidence was complete, both parties rested. Counsel mutually requested an

¹To ensure confidentiality, names of parents and students are not used.

opportunity to submit post-hearing briefs. Counsel mutually agreed to submit post-hearing briefs by July 18, 2016, after receipt of written transcripts, with the decision due date thirty (30) days thereafter. The ALJ granted the request on the record. The ALJ's oral rulings on the amended issue statement and the post-hearing briefing schedule and record closure date were reduced to writing in an Amended Prehearing Order dated June 21, 2016.

Due Date for Written Decision

The Parent and District each requested a continuance of due date for the written decision was continued from July 9, 2016. The reasons were the Parent's request to continue the hearing initially set for June 3, 2016, and the District's concurrence that more than one day for hearing was needed. The District requested the due date for the written decision be thirty (30) days following close of record, and the Parent agreed. The ALJ continued the due date again for good cause due to the parties' mutual request to review written transcripts of the proceedings and submit post-hearing briefs on July 18, 2016. The thirty days after the close of record is therefore **August 17, 2016**. See Prehearing Order dated May 20, 2016; Second Prehearing Order and Notice of Hearing dated May 24, 2016; and, Amended Prehearing Order dated June 21, 2016.

Evidence Relied Upon

The following documents were exchanged five days before hearing and were admitted into evidence:

District Exhibits: D1 through D26, without objection;

Parent Exhibits: P1 through P20, P21 pp. 1-25, and P22 through P27, without objection; P21, p. 26, without objection as a document separate from the District's Evaluation Report; and, P28 over objection.

The following witnesses testified under oath. They are listed in order of first appearance:

Jonathan Bell, District director of student services
Stacey Wright, District special education teacher
Allen R. Albertson, clinical school psychologist contracted by the District
The Student's Mother
Nancy "Kay" Thomsen, District school psychologist
Patricia Maxwell, District general education teacher
Maryn Sage, District assistant high school principal
Shane Sliva, District assistant high school principal

ISSUES

The issues for hearing set forth in section VII of the due process hearing request were based on the facts known to Parent at the time of filing of the request. The issue² is whether the

² The first issue listed regarding stay-put was resolved following a motion conference May 10, 2016, and an Order on Stay-Put issued May 13, 2016.

District violated procedural and substantive requirements of Individuals with Disabilities Education Act (IDEA) and failed to provide the Student with a free and appropriate public education (FAPE) by:

- a. Failing to implement the Student's April 14, 2015, IEP during the 2015-2016 school year, by: failing to implement accommodations or modifications and failing to implement behavior goals which impacted the Student's ability to progress toward academic goals; failing to implement any part of the IEP after the January 2016 emergency expulsion ended;
- b. Failing to identify, assess, develop, and/or implement a functional behavioral assessment and behavioral intervention plan for the Student;
- c. Failing to complete progress reporting as required by the April 14, 2015, IEP;
- d. Failing to allow Parent to participate in educational decisions regarding the Student as follows:
 - i. Refusing to communicate with Parent by phone and insisting on email communication, and not scheduling an IEP meeting at Parent's request, sooner than the meeting scheduled in January 2016;
 - ii. Changing the Student's placement in January or February 2016 to an online program without an IEP meeting or reevaluation; and
 - iii. Failing to consider the less restrictive placement ideas the Parent suggested for the Student's IEP in the March 29, 2016, and April 12, 2016, meetings.
- e. Failing to conduct a reevaluation before proposing to change the Student's placement from a high school setting to an online school;
- f. Failing to issue appropriate notice when the District changed the Student's placement;
- g. Failing to place Student in the least restrictive environment by:
 - i. Failing to develop an IEP in April 2016 that included a placement in the least restrictive environment for the Student, consistent with the District's March 29, 2016, evaluation; and
 - ii. Failing to have a full continuum of services available within the District's schools in order to meet the Student's needs within the least restrictive environment.
- h. Failing to develop an IEP consistent with the District's March 29, 2016, evaluation when the District proposed significantly increased time in specially designed instruction and greatly limited the Student's access to general education curriculum;

- i. Proposing to offer compensatory education services which were not detailed and not sufficient to remedy the District's failure to provide the Student FAPE;
- j. And, whether the Parent is entitled to the requested remedies in section VIII of the due process hearing request, or other equitable remedies, as appropriate.

See Prehearing Order dated May 24, 2016; Amended Prehearing Order dated June 21, 2016.

FINDINGS OF FACT

The Student

1. The Student transferred into the District in fall 2015 at the start of 10th grade. The Student and his Parent reside within the District. The Student is now age 16.
2. The Student began his education in Guam. At about age 5, the Student was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). A year later, he was diagnosed with Oppositional Defiant Disorder (ODD).
3. When the Student was a small boy, his behavior included talking to a person or persons no one else saw. His Parent was not certain if he had an imaginary friend or was suffering from a hallucination. The Parent did not disclose that behavior to school authorities in any district the Student attended, prior to disclosure to the District on January 15, 2016.
4. In spring 2007, the Parent relocated the family from Guam to Puyallup, Washington. The Student began attending elementary school in the Puyallup School District (Puyallup). The Parent experienced financial difficulties and became homeless. She allowed the Student to remain in Puyallup when she relocated to another city. The Parent gave power of attorney over the Student's medical and education decisions to a woman she met shortly after relocating to Puyallup. The Student continued to see his Parent regularly, but lived with the family friend for several years and attended Puyallup schools. He continued to receive special education services through sixth grade.
5. The Student relocated to live with his Parent during the 2013-2014 school year. He was a seventh grade transfer student to the Bremerton School District (Bremerton). He received special education services from Bremerton during his 2013-2014 and 2014-2015 school years. During this period of time, the Student was sexually assaulted by someone known to his Parent.
6. The Student relocated with his family to Tacoma in summer 2015. The Parent enrolled the Student, then age 15, in the neighborhood school at Stadium High School (Stadium).
7. The Student began at Stadium on or about the first day of school in fall 2015.
8. The Parent presented to the District the Student's last Individualized Education Program (IEP), developed by Bremerton on April 14, 2015. Exhibit D2. Bremerton had developed the IEP based on the Student's triennial reevaluation completed in spring 2015 during his ninth grade year. Exhibit D1.

9. The Parent knew the Student had been sexually assaulted or molested while in her care in Bremerton. She did not disclose that information to the District prior to January 15, 2016.
10. The District's assistant principal in charge of special education, and the school psychologist, each had the opportunity to review the Bremerton reevaluation report and IEP. The school psychologist also reviewed educational records from Puyallup. Exhibit P1.
11. The Student continued to qualify for special education at Stadium due to Health Impairments, pursuant to a Transfer Review convened by the school psychologist on September 4, 2015. The Parent understood the District could provide comparable services to those outlined in the Bremerton IEP and could reasonably implement the goals and objectives of the Bremerton IEP. The Bremerton IEP called for a placement 80 to 100% in regular class settings. *Id.*, pp. 3, 5, 6.
12. The school psychologist prepared a Prior Written Notice (PWN) to propose to continue an educational placement starting September 4, 2015. The PWN described the funding category as Other Health Impaired, in the areas of reading, writing, math and social/emotional/behavioral functioning.
13. Unbeknownst to the District, the Student began receiving mental health services in December 2015.
14. Also unbeknownst to the District, the Student agreed to take prescription medications again to control symptoms related to his medical condition(s).
15. The Student attended Stadium through Friday, January 15, 2016. On that day, following a meeting with his Parent and for reasons addressed in the findings below, the District issued an emergency expulsion.
16. The District determined it would not permit the Student to return to Stadium after the emergency expulsion ended. On January 26, 2016, the District's school counselor registered the Student in its online program known as Tacoma Virtual Learning (TVL).
17. The Student started the online TVL shortly after the expulsion ended.
18. Starting February 1, 2016, the Student underwent assessments for a reevaluation. The assessments included a psychological evaluation for a comprehensive violence/risk assessment.
19. The Student attended a reevaluation meeting on March 29, 2016. The meeting and the reevaluation and IEP process which continued to April 12, 2016, are discussed in findings below.
20. The District issued two PWNs, discussed more fully in the findings below. The District offered the Student compensatory education during summer 2016, and a change to a day school placement starting April 25, 2016.
21. On April 25, 2016, the Student's Parent filed the request for special education due process hearing.

22. The Student began attending the District's Wilson High School (Wilson) starting Monday, May 23, 2016, as agreed by the Parent and District after a stay-put order was issued May 13, 2016. At Wilson, the District has implemented the Student's April 2015 Bremerton IEP, pending this order.

23. The Student had attended Wilson for about three weeks when the hearing concluded on June 15, 2016. The Student had also begun to meet after school with a tutor at Wilson.

The Parent

24. The Parent loves the Student. She wants him to graduate from high school with his class.

25. The Parent lives with a sister, a cousin, a niece, the Student, and his 12-year-old sibling in a small home. The Parent works two jobs. She is a home caregiver to three disabled family members, and also a night manager at a fast food franchise. The Parent and her family relocated to Tacoma to be closer her niece's hospital. The Parent provides care and transportation to and from medical appointments, including to weekly dialysis treatments for one family member. RP 226-227, 513.

26. The Parent carries a cellular telephone with her at all times because she works many hours away from the home. The Parent depends on the cellular telephone to be available day and night to her children, their teachers and other school personnel, the relatives with disabilities and their medical providers, and other family members.

27. The Parent has an email account which she accesses on the home computer during hours she is at home. She does not have access to her email when she is away from the home. She arranged for the Student to have email access through her account. She feels young in age but described her preference for "old school" communication face-to-face or by telephone.

28. The Student does not have his own room. He sleeps on the floor. RP 670. The Parent described the home living conditions as less than ideal but what she is able to afford financially. The Parent explained that the noisy home environment frustrates the Student. When the Parent was away from the home, the female adult relatives gave conflicting instructions to the Student. The Parent explained how the limited space and lack of privacy contribute to the challenges faced by the Student. The Student and his younger sibling often argue, including about how to use and share technology and computer games.

29. The Parent feels guilt that the Student suffered a sexual assault when the family lived in Bremerton. There is no evidence that the Student received any counseling or therapy to help him recover after the assault, until December 2015.

The Puyallup Reevaluation April 2012

30. The District considered the reevaluation reports from the two prior school districts as part of the Transfer Review process.

31. Findings regarding the Puyallup reevaluation are limited to those necessary to decide the issues in the due process complaint.

32. Puyallup conducted reevaluations of the Student's needs in 2009 and 2012. The reevaluation summary in April 2012 recommended the Student receive specially designed instruction in reading, math, written expression, and behavior. Exhibit P1, p. 3.

33. The Student had a short-term suspension for undescribed aggressive behavior in May 2007, shortly after he entered Puyallup. The second record of discipline in Puyallup was two years later, in May 2009, for noise and pounding fists. Puyallup records recorded no discipline of the Student during the 2009-2010, 2010-2011, or 2011-2012 school years. *Id.*, p. 17.

34. The 2012 Puyallup reevaluation group included Kay Howe, who identified herself as the Student's Guardian. *Id.*, p. 1. At the time, the Student was 12 years old and in sixth grade. The reevaluation summary described that the Student lived with his "foster mother" and that he saw his biological mother regularly." *Id.*, p. 13.

35. The Parent was unaware of the "foster mother" reference in the Puyallup school records until she read the reevaluation summary closely during cross examination at hearing. The Parent disputed there had been a foster care placement. The Parent explained the Student had difficulty adjusting to the move from Guam, and how Ms. Howe had befriended them both. The Parent explained that when she moved to another town, she did not want to disrupt the Student's school again. At some point, she also became homeless. She arranged for the Student to live with Ms. Howe and continue in elementary school without disruption. The arrangement with Ms. Howe was by private agreement. The Parent gave Ms. Howe her power of attorney over the Student's health and education decisions. The Parent did not give legal custody to Ms. Howe. There was no court-ordered guardianship. The Parent agreed she regularly was involved in the Student's life while he resided with Ms. Howe.

36. While he lived with Ms. Howe, the Student had access to medical care and took two prescription medications for treatment of ADHD. *Id.*, p. 13.

37. Puyallup used the Social Skills Improvement System (SSIS)-Multiple Raters (with subscales) to assess the Student in the area of behavior. In the classroom, the Student demonstrated well-below average social skills and well-above average problem behaviors. His areas of difficulty included: participating appropriately in class; paying attention to instructions; following classroom rules; forgiving others; taking responsibility for being part of group activities; and having temper tantrums. *Id.*, p. 17.

The Bremerton Reevaluation April 2015

38. Findings regarding the Bremerton reevaluation are limited to those necessary to decide the issues in the due process complaint.

39. Bremerton scheduled an IEP team meeting at 7:45 a.m. on April 14, 2015. The purpose was to review the Student's most recent full evaluation and to review and update his IEP. Bremerton invited to the IEP meeting the school principal as district representative, a special education teacher, three general education teachers, a school psychologist, the Parent, and the Student. Exhibit D1, p. 9.

40. The Parent informed Bremerton she had a schedule conflict. She asked to change the meeting time to the afternoon. She understood her request was granted.

41. The Bremerton records contain three signature pages bearing a date of April 14, 2015: two signature pages for the reevaluation report; and one signature page for the IEP. Some District invitees likely met the morning of April 14, 2015: the special education teacher, three general education teachers (English, science and math), and the school psychologist who served as the district representative. The reevaluation report with their signatures (absent those of Parent and Student) was reviewed three days later by the special services supervisor on April 17, 2015. *Id.*, p. 6.

42. Some District invitees met in the afternoon with the Parent and Student. There are inconsistencies with the signature pages produced in the afternoon. The reevaluation report signature page from the afternoon included the signatures of Parent and Student, but is missing the signature of the English teacher. The signature of the general education math teacher is on the IEP, but she did not sign the second reevaluation report until April 16, 2015. The second reevaluation report was also forwarded for review to the special services supervisor. The special services supervisor re-signed the reevaluation report on April 20, 2015. While the signature of the Parent and Student are on the second reevaluation report, they are not on the IEP. The role of district representative for the reevaluation was filled by the school psychologist. The principal was an invitee, but did not sign the reevaluation report. The principal signed the IEP in the role of district representative. *Id.*, pp. 6-7; Exhibit D2, p. 14.

43. The subject of the missing Parent signature on the April 14, 2015, Bremerton IEP either went unnoticed or was not a concern for the District during the Transfer Review in September 2015.

44. The subject of the missing Parent signature on the April 14, 2015, Bremerton IEP was raised by the District at hearing. The findings above show that the missing Parent signature on the Bremerton IEP is not an indication that the Parent lacked interest in the Student's education, or disagreed with the contents of the Bremerton IEP, or failed to attend a scheduled meeting without advance communication about a conflict. It is found that the Parent attended the rescheduled IEP meeting on the afternoon of April 14, 2015, and she agreed with the Bremerton reevaluation and IEP.

45. *Areas of evaluation.* Bremerton summarized reevaluated results for the Student in the areas of reading, math, written language, and social/emotional/behavioral. The Bremerton reevaluation resulted in continued eligibility but under the category Health Impaired (noting in 2012 the category had been Other Health Impaired). Exhibit D1, pp. 2-3.

46. The Student started his ninth grade year in fall 2014 at Bremerton High School. He did not perform well academically at the high school. He enrolled in November 2014 at the Phoenix Academy, Bremerton's alternative program for ninth and tenth grade students. His educational performance was impacted by school attendance issues, a medical condition which impacts attention, focus, and concentration, and academic delays. He continued to struggle with assignment completion at Phoenix. *Id.*, p. 3.

47. The Student was observed to demonstrate minimal effort and chose not to use his accommodations. His English teacher reported he was "on just below grade level text (970) with full audio support. In the Achieve program this means that not only is the text highlighted as it is read to guide the student to follow along, but the student may also select the speed at which it is read. Using the audio feature does not stigmatize students on an IEP because many students in class are using headsets as they read. However, [Student] has not been using the headset for the text and his scores on the few activities he has completed are very low. He is very talkative and distractible in class and requires frequent reminders to focus on the task. He is always polite and cheerful but not at all productive." *Id.*, p. 2.

48. The Student had not met his tasked reading goals from his last IEP. The reevaluation team felt his current goals should be continued in order for him to fulfill them to meet his academic needs. *Id.*, p. 2.

49. *Health.* The reevaluation refers to the 2012 reevaluation when the Student was taking medication. *Id.*, p. 2. The Student was not taking prescription medication to treat ADHD in spring 2015.

50. *Social/emotional/behavioral evaluation.* The observations of teachers in Puyallup, in Bremerton middle school, and at Phoenix Academy were considered. In elementary school, the Student struggled with attending to tasks and often needed reminders to stay on task. He had difficulty interacting appropriately with peers and adults when situations did not go the way he would like. He had a difficult time letting go of negative issues from prior situational occurrences. In middle school, the Student's educational performance was impacted by poor attendance. He had two office referrals for defiance or disruptions while in middle school. At Phoenix, the Student's teachers noted he was sometimes distracted or off task, and sometimes disrupted class by talking. He had occasional behavioral issues where he needed to be sent home for the day. He was sent home three times in winter 2014. However, he earned a positive referral in March 2014 for "staying on task 100% during group work." *Id.*, p. 3.

51. The Bremerton 2014 reevaluation recommended the Student receive specially designed instruction in basic reading skills, reading comprehension, math calculation, math reasoning, written language, and social/emotional/behavioral. As appropriate and necessary, the reevaluation report recommended:

Assignments recommendations include: extended time to complete assignments, reduce level of difficulty, shorten assignments, provide alternative assignments, give directions in small, distinct steps, provide clear/concise instructions, lower reading level of assignment, adjust length of assignment, change format of assignment and large assignments broken down.

Modification of Instruction recommendations include: check frequently for comprehension, modify pace of instruction and present one new item at a time.

Organizational/management recommendations include: teach study skills.

Environmental modifications include: preferential seating.

Assessment/test modifications include: allow extra time for tests, allow a second chance to test and allow pass/fail grades.

No supplemental aids and services or related services were recommended. However, the Student was to have access to assistive technology available to all other students. *Id.*, p. 4

The Bremerton IEP dated April 14, 2015

52. Findings regarding the Bremerton IEP are limited to those necessary to decide the issues in the due process complaint.

53. The Bremerton IEP team included the Parent and represents the team's agreement on April 14, 2015. The IEP team set annual goals and objectives for the Student in the areas of reading, math, written language, and social/emotional/behavioral. Exhibit D2, pp 4-7.

54. The IEP team expected the Student's year of graduation (June 2018) to be extended to June 2020. *Id.*, p. 2.

55. *Reading.* The Student was to understand and apply knowledge of text components to comprehend text.

Annual Goal: Student will demonstrate increased potential to access grade level materials by increasing his reading lexile score from a present level of 738 to a goal of 1000 as measured by the following evaluation methods: Curriculum Based by 4/12/2016.

Objective: Given a small group setting, materials at his skill level, and minimal assistance, Student will demonstrate increased potential to access grade level materials by increasing his reading lexile score to a goal of 900, as measured by the following evaluation methods: Curriculum Based, Work Samples by 10/12/2015.

Objective: Given a small group setting, materials at his skill level, and minimal assistance, Student will demonstrate increased potential to access grade level materials by increasing his reading lexile score to a goal of 1000 as measured by the following methods: Curriculum Based, Work Samples every grading period by 4/12/2016.

Id., p.4.

56. *Math.* The Student was to understand and apply concepts and procedures from number sense.

Annual Goal: Student will demonstrate increased ability to access grade level curriculum in math by increasing his scores on evaluations in addition, subtraction, multiplication and division from a present level of 80% in each competency to a goal of 100% as measured

by the following evaluation methods: Work Samples by 4/12/2016.

Objective: Given a regular class setting, materials at his grade level, and minimal assistance, Student will demonstrate increased ability to access grade level curriculum in math by increasing his scores on evaluations in addition, subtraction, multiplication and division to a goal of 90% correct in each competency as measured by the following evaluation methods: Criterion Referenced, Work Samples every grading period by 10/13/2015.

Objective: Given a regular class setting, materials at his grade level, and minimal assistance, Student will demonstrate increased ability to access grade level curriculum in math by increasing his scores on evaluations in addition, subtraction, multiplication and division to a goal of 100% correct in each competency as measured by the following evaluation methods: Criterion Referenced, Work Samples every grading period by 4/12/2016.

Id., pp. 4-5.

57. *Written language.* The Student was to demonstrate an understanding of and apply writing conventions appropriate for the grade level.

Annual Goal: Student will demonstrate increased ability to access grade level curriculum by completing written assignments using standard conventions for punctuation and sentence structure with a success rate increasing from a present level of 4 in 10 opportunities to a goal of 10 in 10 as measured by the following evaluation methods: Work Samples by 4/12/2016.

Objective: Given in an individual or group setting, materials at his grade level, and minimal assistance, Student will demonstrate increased ability to access grade level curriculum by completing written assignments using standard conventions for punctuation and sentence structure with a success rate increasing to a goal of 7 in 10 opportunities as measured by the following evaluation methods: Criterion Referenced, Work Samples every grading period by 10/13/2015.

Objective: Given in an individual or group setting, materials at his grade level, and minimal assistance, Student will demonstrate increased ability to access grade level curriculum by completing written assignments using standard conventions for punctuation and sentence structure with a success rate increasing to a goal of 10 in 10 as measured by the following evaluation methods: Criterion Referenced, Work Samples every grading period by 4/12/2016.

Id., pp. 5-6.

58. *Social, Emotional and Behavioral.* The Student was to demonstrate social emotional personal development and responsibility. In this area, the Bremerton IEP had two goals:

Annual Goal: Student will demonstrate increased ability to manage his own education by taking initiative to ask for help when he needs it, with a success rate increasing from a present level of 1 in 5 instances to a goal of 5 in 5 as measured by the following evaluation methods: Observation, Informal by 4/12/2016.

Objective: Given in an individual or group setting, and verbal prompting, Student will demonstrate increased ability to manage his own education by taking initiative to ask for help when he needs it, with a success rate increasing to a goal of 3 in 5 instances as measured by the following evaluation methods: Observation, Informal by 10/13/2015.

Objective: Given in an individual or group setting, and verbal prompting, Student will demonstrate increased ability to manage his own education by taking initiative to ask for help when he needs it, with a success rate increasing to a goal of 5 in 5 instances as measured by the following evaluation methods: Observation, Informal by 4/12/2016.

Annual Goal: Student will demonstrate increased ability to manage his own education by decreasing instances in which he engages in off task behavior from a present level of 5 in 10 class periods to a goal of only 1 in 10 as measured by the following evaluation methods: Observation, Informal by 4/12/2016.

Objective: Given in an individual or group setting, and verbal prompting, Student will demonstrate increased ability to manage his own education by decreasing instances in which he engages in off task behavior to a goal of only 3 in 10 class periods as measured by the following evaluation methods: Observation, Informal every grading period by 10/13/2015.

Objective: Given in an individual or group setting, and verbal prompting, Student will demonstrate increased ability to manage his own education by decreasing instances in which he engages in off task behavior to a goal of only 1 in 10 class periods as measured by the following evaluation methods: Observation, Informal every grading period by 4/12/2016.

Id., pp. 6-7.

59. *Progress Report Method.* The Bremerton IEP provided for a report card/progress report to be issued at least as often as report cards are issued to parents of students not receiving special education services using two methods: report card; written progress report. *Id.*, p. 8.

60. *Curricular Adaptations.* The Bremerton IEP provided the Student with the following curricular adaptations:

Environment:	All adaptations are as appropriate and necessary: Changes in format/environment include: preferential seating and isolate portions of the assignment/instructional materials page to focus student's attention.
Instructional Strategies:	Changes in input include: shortened reading assignments, repeat and clarify verbal and written instructions and allow peer tutoring.
Student Method of Response:	Changes in output include: provide shorter writing assignments, encourage participation in group activities and additional time to complete tests/projects.
Curriculum:	Scope of curriculum is changed in these areas; short, frequent and repeated practice sessions and introduce one new concept at a time.
Assignments:	Student is asked to complete assignments: independently, with guided instruction and cooperatively with classmates.
Behavioral Cues:	Behavioral cues include: respect student's personal space, keep safe distance if he is anxious, use verbal de-escalation techniques and behavior management (see Goals).
Standard Grading ?:	Yes, Student will be graded using standard Gen Ed criteria.
Grading Criteria:	Student will be graded pass/fail based on progress on his IEP goals, which shall be considered as of paramount importance in all grading decisions.
Pass or Fail ?:	Yes, Student will be graded pass/fail.
Pass or Fail Criteria:	All Renaissance High School/Phoenix Academy students are required to complete 100% of course work to a minimum of 80% accuracy to achieve a P grade in the course.

Id., p. 9. The District understood that general education grading standards did not exclude the option to also allow pass/fail for special education classes.

61. *Environment.* The Bremerton IEP team considered least restrictive environment options of general education classes or general education classes with pull-out special education services. The team considered but rejected general class with in-class special education services, and special education class with integration into general class and/or community. The Student would have an opportunity to participate with nondisabled students in the general education classroom and extracurricular and nonacademic activities. The opportunity to participate in age/grade appropriate in-school and extracurricular activities including lunches and assemblies was available to the Student. However, the decision to participate was at the Student's discretion. The IEP noted, "Consideration has been given to the possible harmful effects the placement could have on the student as well as quality of services, and this is deemed to be the least restrictive environment for appropriately meeting the student's goals and objective." *Id.*, pp. 12-13.

62. For the period April 14, 2015, through April 12, 2016, the Bremerton IEP described special education services as follows:

Service	Provider	Minutes	Frequency	Location	Monitored By
Math	Gen Ed Tchr	30	4/week	Gen Ed	Sp Ed Tchr
Reading	Sp Ed Tchr	30	4/week	Sp Ed	Sp Ed Tchr
Social, Emotional Behavioral	Sp Ed Tchr	60	1/week	Sp Ed	Sp Ed Tchr
Written Language	Gen Ed Tchr	30	4/week	Gen Ed	Sp Ed Tchr

The Bremerton IEP provided for 1,500 hundred minutes of instruction per week: 420 minutes of specially designed instruction; and, 1,320 minutes of general education. The Student was expected to be receiving general education instruction 88% of the time. *Id.*, p. 12.

Tacoma's Implementation of the Bremerton IEP in First Semester Tenth Grade

63. *School psychologist.* After the Transfer Review, the school psychologist had no further direct communication with the Student or Parent until January 15, 2016.

64. The school psychologist did not copy the content of the Bremerton IEP into the online IEP template familiar to District staff. After the Transfer Review, she informed special education teacher, Stacey Wright, that a new special education student was added to her caseload.

65. *Assistant principal.* The District designates one adult contact person for each high school student. When the assistant principal introduced herself to the Parent and Student on or before September 4, 2015, she also identified herself as the Student's designated contact person. The assistant principal told the Student that if he ever needed a place to go, or felt stressed out, that he could come to her or to her office.

66. The assistant principal had no further direct communication with the Parent until January 15, 2016.

67. The Student did come to the assistant principal's office one time in October or November 2015. The assistant principal cannot recall the exact date, or if he was referred to the office or if he came on his own initiative. The assistant principal recalled the Student "got into it" verbally with another student. She had no further direct communication with the Student prior to January 15, 2016.

68. *Case manager.* The case manager, Ms. Wright, set the Student's class schedule. With general education teacher Mr. McDivitt, she co-taught the Student in an inclusion class for Sophomore English 1, set in a general education classroom. She also had the Student in a special education Self-Advocacy class. The Student's Algebra 1 class was similarly a co-taught inclusion program with a general and special education teacher in a general education classroom. The Student's schedule included general education Mixed Chorus, World History, and Biology 1. RP 66-67.

69. The case manager worked on the Student's organizational skills in the self-advocacy class. She worked with the Student on reading and written language goals. He was given the general educational curriculum with accommodations: more time if necessary; reduce the amount of paragraph writings. He may need additional time on the computer and go to the library to do some work to complete writing assignments. In English class, the use of "read-alouds" helped with fluency and comprehension. For social/emotional/behavioral goals, the Student received reminders to stay on task and to turn in his work. RP 67-68.

70. The case manager was unable to recall other specific modifications. She was familiar with the Bremerton reevaluation and quoted from it in internal District e-mails in mid-October 2015. Exhibit P5. However, she was unfamiliar with the Bremerton IEP format. She could not identify the curricular adaptations listed in the findings above. Exhibit P3, p. 9. The District IEP format uses the terms "program accommodations/ modifications."

71. In mid-October 2015, the case manager responded to an e-mail from the general education math teacher. The assistant principal and special education math teacher were also included in the e-mail. The math teachers reported the Student's behavior escalating in class, along with problem behaviors of another student. The Student was often off task, defiant about taking off his hat, and "blew out" telling Ms. Maxwell he hated this "fing" class. The math teachers were discussing moving the students to a special education "LRC" classroom. The case manager replied she preferred considering other options before moving students from the least restrictive environment of the general education classroom. She referred to the Student's self-advocacy class teachers to help him with missing assignments, and suggested "we may need a behavior intervention plan that will state clear strategies to use when behavior is becoming an issue." She offered to talk further with the math teachers if they thought the Student was too much of a distraction. The general education math teacher replied, also mentioning consideration of some kind of behavior intervention plan. Ms. Maxwell reported she telephoned the Parent, who had recently received a call from the general education science teacher who taught Biology. Ms. Maxwell reported to the case manager, the assistant principal, and her co-teacher that the Parent believed the Student was enjoying school this year but agreed there tended to be an issue when things did not go the Student's way. Exhibit P5.

72. The case manager observed in 1st semester that sometimes the Student was in a better mood and laughing and doing his work. Other days, the Student had his hood on and was a

little more withdrawn and did not want to be engaged. He did not present a behavioral problem in class with her. The Student appeared to want to do the work and was attentive but very quiet. He was standoffish and didn't form relationships easily. The case manager observed he appeared to be troubled and did not form relationships easily. RP 71.

73. The case manager communicated with the Algebra and Biology teachers about issues they were having with the Student's behavior in the classroom. She did not check with other teachers about the Student's behavior in their classrooms. There is no evidence she attempted to contact the Parent to follow-up after learning two general education teachers had telephoned the Parent. RP 78.

74. The case manager understood the Student's behavior improved in the Algebra 1 inclusion classroom after the other student was moved to another class. She had no further discussion with any other teacher about the need for a behavior intervention plan. *Id.*

75. The case manager did not believe the Student needed a behavior intervention plan at Stadium during first semester. However, she observed the Student did not trust others. One day, possibly in November 2015, she remarked to the Student that he was so sad, quiet and withdrawn as he was coming from the library. She asked if there was anything she could do for him. The Student said he had a lot of issues going on at home and that he didn't trust anyone. She told him he needed to find someone he could trust. She suggested he talk to his mom. The Student told her he hated his mom. The case manager did not press for details and the Student was not forthcoming about details. However, she understood the Student faulted his mom because he felt she allowed her boyfriend to do something to him and the Student was very angry and hated her for it. He said he did not trust his mom and could not talk to her. The case manager understood the past events were resolved. She did not contact child protective services or inform anyone else in the District. RP 106, 127-128, 134, 136, 140-141. After this conversation, the Student continued to be very respectful toward the case manager. RP 141.

76. The testimony of the case manager and the assistant principal differ with the testimony of the Parent regarding the Parent's claims about lack of communication. The Parent claims her repeated requests to meet the case manager to review the IEP were ignored. The Parent feels hurt and disrespected because in her view, the District responded to her only after it received an e-mail from Catholic Community Services (CCS) on her behalf. RP 355. The case manager was sure she met the Parent before January 2016, but could not recall at which conference they met. She could not recall the content of their conversation when they met but denies she was ever asked by the Parent to convene an IEP meeting. The case manager denies that she received any voice mail messages from the Parent. She claims she would have returned the Parent's call if a voice mail message had been left. She recalls she left a voice mail message for the Parent on the day the Student approached her to say the Parent wanted to talk to the case manager. The case manager recalls she walked to her classroom with the Student and telephoned the Parent, but did not reach the Parent. She did not receive a return call from the Parent. She did not try a second time to call the Parent. She does not recall the date the Student approached her about calling his Parent. RP 76-77. The assistant principal recalls no contact with the Parent after their initial meeting in September 2015, prior to the e-mail received from CCS. She denies she would have ever directed any parent or this Parent about how to communicate. She denies telling the Parent that she needed to communicate via e-mail with the case manager. RP 632.

77. The Parent claims that sometime in early October 2015, a counselor or a secretary at Stadium gave her the name of the Student's case manager. The Parent claims she called and left a message for the case manager to call her. When she did not receive a reply, the Parent "kept on calling." She did not describe the content of the voice mail messages she left but recalled she left several messages for the case manager. The Parent described how one day she asked the Student to ask the case manager to call her. She denies that she received a voice message from the case manager. RP 246. However, the Parent also recalled she met the case manager twice, at an open house and later at the parent-teacher conference. She does not remember if she asked for an IEP meeting at the parent-teacher conference. The Parent claims that the two teachers who telephoned to speak to her were not familiar with the IEP and should have been speaking to the case manager. However, she did not claim that she told the case manager about these concerns at the parent-teacher conference. The Parent did not claim that she raised concerns about the lack of communication with the case manager during the parent-teacher conference. RP 353-354.

78. The parent-teacher conference dates were October 22 and 23, 2015. Exhibit P27. As noted in findings below, the Parent received telephone calls from the Biology and Algebra teachers by mid-October 2015, before the parent-teacher conference. The Parent's evidence regarding the date the history or another teacher called is unclear. If the Parent was feeling ignored after leaving voice mail messages for the case manager starting in early October 2015, in all likelihood she would have mentioned the fact during the parent-teacher conference. The Parent more likely than not would have recalled the opportunity to finally talk to the case manager about the calls from the Biology and Algebra teachers.

79. The Parent claims that in November or December 2015, she told the assistant principal she needed to speak to the case manager because she had been getting calls from the Student's teachers, and everyone kept referring the Parent to the case manager. The evidence does not support the Parent's claim that she continued to receive calls from teacher calls after the parent-teacher conference dates. RP 319; 353-354. The evidence is replete with references to communication by telephone with the Parent and District administrators and educators. For example, the Parent recalls the second special education Self-Advocacy teacher, Ms. Behope, telephoned in December 2015 to report the Student was again disrupting class by talking. RP 235. Yet, the Parent testified that in May 2016, she told District employees at Wilson High School that Stadium's "only way of communication was through e-mail, when I specifically said I couldn't do that" and she preferred to communicate by cell phone. RP 319.

80. After considering the above findings, it is found the testimony of District employees is more credible. The preponderance of evidence supports findings that (a) the District did not limit the Parent's method of communication to e-mail, (b) the case manager did not ignore repeated voice mail messages from the Parent starting in October 2015, and (c) the Parent did not request an IEP meeting prior to the CCS e-mail.

81. *Algebra teacher.* The Student was in first period Algebra, co-taught with a blend of general education and special education teachers. Miles Fiala was the special education teacher, and Patricia Maxwell was the general education teacher. Ms. Maxwell described September 2015 was a "good" period with the Student new, lots of transitions, but focused. As the math started to get harder, the Student struggled. As the pace picked up, Ms. Maxwell definitely observed some differences in the Student compared to the beginning of the school year. He and other students would play off each other, and the Student was not focused. As

the semester progressed, she became concerned the placement was not the best fit. The teachers used a variety of strategies to help address multiple behaviors of students in the class. P 480-481.

82. Ms. Maxwell telephoned the Parent in mid-October 2015 to discuss his behaviors and his placement. The Student had already informed the Parent about the problem which prompted the teacher to e-mail the case manager and assistant principal, described in the findings above. Exhibit P5. The Student got really mad and left the classroom. RP 486. Ms. Maxwell also met the Parent and Student when they came for the conferences about October 22 or 23, 2015. The Student had a piece of work that he showed his Parent during the conference, to demonstrate academic progress. RP 487-488.

83. Ms. Maxwell had no further communication with the Parent until January 2016. She and the special education math teacher were reviewing all their students and planning for second semester. They felt the pace and rigor of Algebra 1 was too hard for the Student. By e-mail and telephone communications, Ms. Maxwell learned that the Student had recently asked the Parent about finding a slower math class. When Ms. Maxwell learned an IEP meeting had been scheduled for Friday, January 15, 2016, she believed it was to address academics and moving the Student to a special education or "LRC" classroom to work on building up his skills. She hoped he could return to Algebra 1 the following school year. Unfortunately, she was going to be out of town for the IEP meeting. She telephoned the Parent to let her know she could not attend the meeting. She told the Parent she had shared with the case manager the information she and the Parent discussed about moving to a special education classroom for 2nd semester math. Exhibit D7; RP 488-489.

84. To Ms. Maxwell, a behavior intervention plan might be having some kind of a signal or a cue, being able to have a relationship with a student to be able to say this is what I'm talking about, you need to be done. She does not know if her mid-October 2015 e-mail reference to the Student's needing a behavioral intervention plan meant something formal or if she had something informal in mind. She recalls making lots of seating changes in that classroom, with lots of one-on-one conversations with multiple students, and the ability to choose to be in a group with special education teacher, Mr. Fiala, at times if needed. She remembered talking with the Student about a cue but cannot remember specifically coming up with a cue. She recalls that Student did not want to be called out. She does not recall any other "blowouts" and worked only with her co-teacher and the case manager to discuss strategies. RO 495-496.

85. Ms. Maxwell explained Algebra as a building course where three major concepts carry through the year. A student needs to be able to solve for X. A student needs to be able to graph a line and know the meaning of the parts of the graph. And, a student needs to be able to apply those two concepts in setting that get increasingly more difficult as the second semester wears on. The Student had not yet mastered these concepts. A student with a "D" grade in Algebra 1 can continue in Algebra 1 second semester, but the teacher needs to be able to "work both on the stuff that's new and the stuff that you're still struggling with." If the Student had continued with Ms. Maxwell in Algebra 1 second semester, she would have done a lot of embedded practice. For example, on a day of a lesson of a new concept that used an old concept, the "do-now problems or the entry-task problems would be some sort of a review of solving X correct, for example, in a linear equation, and then the new concept might be how we solve for X in an exponential equation." RP 497-498,

86. *Attendance.* The Student's attendance at Stadium was improved compared to his attendance at Phoenix. RP 154, 398. However, there was a pattern of poor attendance during 1st semester. RP 192; Exhibit P9. Ms. Maxwell described attendance by high school students in general as really poor. RP 505. The Student's attendance did not stand out to her. He was not one of the students she considered to have chronic attendance problems. Ms. Maxwell thought his attendance September through November 2015 looked pretty typical for a high school student at Stadium. RP 506. The Parent explained the Student was excused for absences because he was sick, and had appointments for immunizations and for a broken arm. RP 364.

87. *Discipline.* The Student was not subject to disciplinary action prior to January 15, 2016. The one behavioral event recorded in his discipline records is the emergency expulsion January 15, 2016. Exhibit P8. In addition to the verbal "blow out" in Algebra when the Student walked out of the class in October 2015 (described in findings above), the Student was involved in a verbal altercation with another student in early January 2016. The Student left campus and walked home, avoiding escalation to physical contact. His Parent was concerned nobody at the District knew the Student had walked away from school. RP 351.

88. *Progress reports.* The Parent received the Interim Grade Report dated November 6, 2015, with mid-semester grades. Exhibit P6. The Parent had online access to real-time reporting of Student attendance and classwork completion for each course. Exhibits P9, P10. The Parent explained how she frequently accessed the Student's online account to check the status of assignments. The online account displayed assignments, date assigned and date due, and categorized assignments: classwork; quiz; test; project; or, homework. The Parent could view the score, total points and weighted scores, as well as the Student's average score and percentage for each assignment. For each class, the Parent could compare the Student's points in comparison to maximum points, and review his overall average and his grade. Exhibits D3, p. 1, D6, D24, D25.

89. The District's special and general education teachers did not document the Student's progress toward IEP goals using the objective measures set forth in the April 2015 IEP, or by other comparable objective measures. RP 247. The District has a process or system by which teachers may provide parents of students in special education with written progress reports of progress under the IEP. The case manager discovered after January 15, 2016, that the District had not input the Student into its IEP Online program. Ordinarily when completing the interim progress report mid-semester, the teachers would use the IEP Online program to report on progress toward IEP goals. RP 78-79.

90. There District's teachers did not track the Student's progress using comparable measures to the Bremerton IEP. The teachers did not report to the Parent whether the Student increased (a) his reading lexile score, (b) his scores on evaluations in addition, subtraction, multiplication and division, (c) his success rate completing written assignments using standard conventions for punctuation and sentence structure, or (d) his success rate managing his own education by taking initiative to ask for help when he needs it. The teachers did not track the Student's progress using a measure comparable to the Bremerton IEP to report if he decreased the number of instances in which he engaged in off task behavior.

91. *Grades.* The Parent had online access to the Student's interim and semester end grades. Exhibit P16. The District uses a 0 to 4.0 scale and letter grades to record progress toward credits. Mid-semester of tenth grade, the Student's grade report showed:

Sophomore English 1	C	Has made satisfactory progress
Mixed Chorus	C	Needs to do work outside classroom Has improved skills creating/performing
World History 1	E	Has not completed basic requirements Needs to complete and turn in assigned work on time
Algebra 1	D	In danger of failing Behavior and/or attitude has affected quality of work
Self-Advocacy	B-	Grade reflects achievement using adapted curriculum
Biology 1	D	In danger of failing Cooperative and pleasant Needs to complete and turn in assigned work on time

Exhibit P6.

The Dream

92. Shortly after Thanksgiving Day 2015, the Student told his Parent and two family members in the home that he had a dream. In the dream, he used a knife to kill his family members. The Student was seeking help. RP 251.

93. The Parent called the 24-hour hotline available through her health insurance and talked to a nurse. The nurse contacted the police to make sure the family was secure at their home. The nurse recommended the Parent take the Student to Mary Bridge Children's Hospital (Mary Bridge). *Id.*

94. With the Parent's permission and approval, the police searched the home. The police did not find any guns in the home. At the Parent's request, the police took possession of the Student's pocket knife. *Id.*

95. The Parent took the Student to Mary Bridge as recommended. The Student was not held overnight by Mary Bridge staff and returned home with his Parent. *Id.* The Mary Bridge staff helped connect the family with counseling through Catholic Community Services (CCS). RP 252

96. The CCS staff began to work with the Parent, the Student, and extended family to develop and implement a home Safety Plan. The family continues to follow the home Safety Plan, which includes locking up each day knives used for cooking. The initial CCS program known as FAST was a 90-day crisis program which began in December 2015. The second CCS program known as WISE began in March 2016. *Id.*; RP 326.

97. In December 2015, the Parent and Student began to receive individual and family counseling and intervention services from CCS staff under a program offered for 90 days. The Student meets individually with a counselor. The Parent was assigned a parent partner. They sometimes meet with CSS staff as a family, as well as individually.

98. Of the individuals, institutions, or organizations with knowledge of the Student's dream, none warned, cautioned, or informed the District of safety concerns when the dream was first reported. There is no evidence that the medical providers or law enforcement responders expressed safety concerns related to the Student, other students, or teachers at Stadium.

The January 15, 2016, Meeting

99. Sometime in late December 2015 or early January 2016, the school psychologist received an e-mail from CCS on behalf of the Parent, requesting a meeting. The District scheduled a meeting for January 15, 2016. In that same time period, the assistant principal was aware that the Ms. Maxwell was concerned about his lack of progress in Algebra. The assistant principal knew the Parent and Ms. Maxwell had recently discussed the Student's difficulty keeping up with the rigor of the "inclusion" classroom. The assistant principal expected the discussion about academics would include whether to transfer the Student to a special education classroom for Algebra for second semester, and need for resulting schedule changes.

100. The special education and general education math teachers, the school counselor, the assistant principal, and the case manager exchanged e-mails January 7 and 8, 2016. The case manager informed the others she was scheduling "a conference with parents and Catholic Community Services per their request, to talk about [Student's] needs for school success." She told her District colleagues she planned to send them an invitation. Exhibit D7. Ms. Maxwell learned the meeting would be the next Friday and e-mailed that she was unavailable. She stated she would telephone the Parent to make sure "my part has been discussed with her." *Id.*

101. Ms. Maxwell called and spoke to the Parent. She told the Parent she shared their conversation with the case manager about changing the math placement. She hoped Mr. Fiala, her special education co-teacher, would be able to attend the meeting. RP 490.

102. In the week before the meeting, the Student walked off campus without the knowledge of District employees. The Parent understood from the Student that he had become angry with another student over something the other student said. The Parent described the event as a verbal altercation. She understood the Student had become very angry and feared the altercation could be physically violent, so he went home to avoid an escalation of the situation. The Parent was relieved the Student had avoided further conflict, but she was very concerned about his description of the encounter, his anger, and that he could leave the Stadium campus without anyone at the school aware of his absence. RP 261. The preponderance of evidence supports a finding that this event weighed heavily on the Parent's fears and worries in the days leading up to the January 15, 2016, meeting.

103. The school psychologist referred to the January 15, 2016, meeting was an IEP meeting in the evaluation summary. Exhibits P21, p.2; D20, p.2. There is no documentation in evidence of an IEP meeting invitation, or of advance agreement of date and time of meeting or advance confirmation of persons accepting the invitation. There is no documentation in evidence of the meeting attendees or minutes of the meeting. The assistant principal recalled that Mr. Fiala arrived for the meeting but did not stay. She recalled Mr. Fiala left before the Parent arrived. The evidence establishes four persons attended the meeting: the assistant principal, the case manager, the Parent, and Leakhana "Nicky" Srey of CCS. Probably, a second CCS member, the parent partner, arrived after the meeting started. RP 126-127; 259; 633; Exhibit P28.

104. The assistant principal and case manager expected to discuss academics, and specifically about moving the Student to a special education "LRC" class for math. The move to an LRC class would also result in change in class schedules. Before the participants sat down, the Parent said to the effect that she would never forgive herself if there was another Columbine or Marysville. She began to explain the circumstances at home and that the Student was receiving help through CCS. The assistant principal recalls, "I told her, I said, Wow, you've got my attention. We need to sit down and talk about this because these are some scary things that you've just kind of put out on the table. And so the—the whole purpose of the meeting, we didn't kind of get to the purpose of the meeting because that's where we went." RP 633.

105. The Parent was very distraught, crying, and visibly upset as she told about the dream the Student had about killing his family. RP 127. The Parent explained how the Student became extremely upset after a verbal argument with another Student one week earlier and had left the Stadium campus. RP 261. The assistant principal was unaware of the prior week's event until the Parent disclosed it at the meeting. RP 662. The Parent explained the Student had hallucinations when he was very young, and had been sexually assaulted while living in Bremerton. She explained the recent visit from the police, going to Mary Bridge, the home safety plan, and CCS's involvement with the family. The Parent stated she was afraid of the Student at that time because he was aggressive. RP 261-263.

106. It is probable that the Parent described CSS's service as being available to the family 24 hours per day. The assistant principal and other District staff formed the mistaken impression that CCS staff were frequently in the home providing the Student and family with counseling. RP 127; 633. The evidence supports a finding that Parent's description of the Student and his home circumstances were not a surprise to Ms. Srey of CSS. However, the Parent's Columbine and Marysville references and fear the Student could commit mass shootings at Stadium did surprise Ms. Srey of CCS. The Parent had not talked of such fears or about being a parent who failed to pay attention or ignored warning signs like parents of the shooters at schools in Columbine or Marysville. RP 362; Exhibit P 28.

107. During the meeting, Ms. Srey was fairly quiet, sometimes nodding her head. The assistant principal mistook Ms. Srey's supportive body language as an indication she was in full agreement with the Parent's concern about the Student's potential to commit school violence. RP 634. There were no discussions about academics at the meeting, except regarding tutoring described below. RP 127, 633.

108. The assistant principal decided based on the Parent's belief the Student was at risk of committing school violence that it was necessary to expel him. The Parent did not disagree with the expulsion decision. The District determined the duration of the emergency expulsion was to be for ten (10) school days through February 2, 2016. RP 265, 638. Exhibit D8.

109. The District staff and the Parent knew the first semester was nearing completion. The assistant principal discussed with the Parent that because the Student received special education services the District would put together a team and probably do some more evaluations. The Parent expressed concern about the Student falling behind academically. The assistant principal said they would also put in a request for a tutor. They also discussed that the District would pay to obtain a violence risk assessment. The Parent expected the risk assessment and other evaluations would be completed within ten school days. She also

expected tutoring to start during the expulsion period. However, the Parent has not proven that either expectation was based on a promise or assurance from a District employee. There is no evidence of any discussion about the impact of the suspension on the Student's semester grades or earned credits. RP 265-266, 639; 641.

Events from Expulsion to End of First Semester Tenth Grade

110. Stadium students had a school holiday on Monday, January 18, 2016. There remained eight school days to the end of first semester on January 28, 2016. Stadium students had a secondary semester one-day break on Friday, January 29, 2016.

111. The Student participated in assessments and evaluations during the expulsion period; however, he did not complete the first semester classes.

112. The Student's scores for 1st semester through January 15, 2016, were sufficient to result in the Student earning 1.5 credits: Mixed Chorus (grade C-), Sophomore English (grade C), and Self-Advocacy (grade C-). The Student scores fell short and he failed three courses: Biology 1, Algebra 1, and World History 1. Exhibit P16.

113. Before the expulsion, the Student had an overall Algebra 1 grade of 58 percent. Ms. Maxwell explained the passing rate was 60 percent. If he had done well on the weighted assignments due January 22 and January 28, 2016, Ms. Maxwell believed that the Student would have attained a passing grade Algebra 1. A grade of "D" or a 1.0 grade point average or above qualified as passing. If the Student had passed Algebra 1, he would have earned additional credits toward his graduation requirement. RP 501-502.

114. On January 20, 2016, the school psychologist met with the Student in the assistant principal's conference room. The two-hour meeting was for the purpose of assessing the Student in the area of social/emotional/behavioral. She administered the Psychosocial Evaluation & Threat Risk Assessment (PETRA) and the Adolescent and Child Urgent Threat Evaluation (ACUTE). The District sometimes referred to these as distress screenings. RP 520-521; Exhibits D9, D18, p. 2.

115. After the PETRA and ACUTE were administered, a District team met on January 20, 2016. The team consisted of the assistant principal, a special education teacher, Ms. Amy Behope, a guidance counselor, and school psychologist. They reviewed the PETRA and ACUTE scores, which are described in more detail in the assessment findings below. They estimated the characteristics of the threat/incident described by the Parent on January 15th as a "high/serious" risk of violence. They estimated the Student's risk of suicide as high. Exhibit D9.

116. The District's team did not document its January 20th discussion about whether the Student should return to Stadium after the ten-day expulsion. However, based on the testimony of the assistant principal and school psychologist, and the District action to register the Student for second semester classes in an online program, it is found that the District team determined the Student should not return to Stadium at the end of the expulsion for his own safety and the safety of other students and District staff. *Id.*

117. The District decided to conduct a reevaluation despite the fact the Bremerton triennial reevaluation of April 2015 was not yet a year old. The school psychologist issued a PWN on

January 26, 2016, proposing reevaluation starting January 26, 2016. The school psychologist also issued a Notice of Meeting, which states it was sent to the Parent on January 26, 2016, the same date scheduled for the meeting. The purpose of the meeting was reevaluation considerations. A reevaluation notification/consent letter was also sent to the Parent, which she signed consenting to evaluation on February 11, 2016. Exhibit P13.

118. On January 26, 2016, the District's guidance counselor registered the Student in the District's online Tacoma Virtual Learning (TVL) program. He acted on the direction of the assistant principal and the District's central services team. Exhibit P12, p. 2. The director of student services stated he was not involved in the TVL placement decision. RP 47. The registration was completed without advance notice to the Parent.

119. The guidance counselor left unchecked the TVL registration form boxes in which to indicate if the Student had an IEP, 504 Plan and Health Plan. He did check the box for None. *Id.*, p. 3. He registered the Student in four second semester sophomore classes and two other classes:

- English 10B/Sophomore English
- Science 10B/Biology 2
- Algebra 1B_Algebra 2
- World History B
- Intro to Fitness/ PE1
- Health/Health1

Id., p. 4.

120. The TVL registration form stated:

All student requirements, learning goals, and performance objectives are outlined in the TVL Expectations and Statement of Understanding document, the individual course syllabus, and coursework available in the class. Students should expect to spend a minimum of five hours per week for each course they are enrolled in. Classes begin on January 29, 2016 and end on June 17, 2016. Students passing online classes will earn credit that will count toward the total number of credits needed for graduation.

The statement was followed by "Required Signatures" for Student and Parent. Below each signature line was the statement:

I have read, understand, and agree to abide by the District's Acceptable Use Policy, TVL's Netiquette Policy and the TVL Expectations and Statement of Understanding available at <http://www.tacoma.k12.wa.us/Schools/hs/TVL>.

Neither Parent nor Student participated in the TVL registration. Their designated signature lines are blank. The guidance counselor's signature is affixed and below it is the statement:

I approve this registration and written student learning plan for this student's individual educational needs.

Id., p. 5-6.

121. The registration contents are consistent with a program designed for students with self-initiation skills who take one or two courses online. It is unusual for a Student's entire semester class schedule to be online. Typically, students are enrolled in one or two online classes at a time. RP 47. The District enrolled the Student in six courses. The TVL program expectation of five hours per week per course amounted to 30 hours for the Student's online courses. The 30 hours for TVL were to be in addition to the specially designed instruction (SDI) and other services. The director of student services, Mr. Bell, estimated at Stadium that would be about 20 minutes of SDI per hour of classroom study. RP 594-595. The 20-minute SDI standard would apply to an hour of classroom study in inclusion setting co-taught by general and special education teachers. RP 597.

122. The director of student services was aware that the assistant principal had talked about the District's therapeutic learning center or TLC. A TLC class is instructed by a teacher with a skill set in meeting students with behavioral needs. An LRC classroom is generally content based, such as math services being delivered at a variety of skill levels depending on the student's needs for support. RP 595-596. A resource room or LRC classroom would be more restrictive than an inclusion classroom. A TLC classroom in and of itself would not necessarily be a more restrictive environment than an LRC classroom. RP 597.

123. On Friday January 29, 2016, the assistant principal telephoned the Parent and told her about the District's decision to enroll Student in the online TVL program. The duration of the telephone call is not known. The evidence does not indicate the Parent's location or whether she was interrupted during work activities by the telephone call. The Parent and Student were scheduled to meet with the independent evaluator the next business day, Monday, February 1, 2016. The violence risk assessment had not yet been completed. More probably than not, the assistant principal reasonably believed the Parent was relieved the Student would not immediately be returning to Stadium. The understanding of the assistant principal of what the Parent wanted for the Student was strongly influenced by the high level of distress, worry, and fears the Parent displayed at the January 15th meeting. The assistant principal reasonably believed the Parent "was not excited" about the Student being in a large high school comprehensive setting. RP 646-649.

124. There is dispute about whether the Parent agreed with the TVL placement. The assistant principal knew the Parent was concerned about the Student falling behind academically during the expulsion. The assistant principal presented the plan for TVL online with continued tutoring services as "something for the interim" while the violence risk assessment and other evaluations were being undertaken. She believes that "anybody can object" and that the Parent could have said she wanted something else. RP 647-648. The Parent did not expressly reject the District's decision that the Student would not return to classes at Stadium. However, the Parent's acceptance was not based on anything other than a cursory understanding that services would be online. The assistant principal did not provide the Parent with any significant level of detail regarding the TVL program requirements. The Parent and assistant principal did not discuss or agree to the details of who, what, when, where, why and how of tutoring services. The assistant principal did not discuss with the Parent the specific details of how the District intended to implement the April 2015 Bremerton IEP and meet the IEP goals and measurable objectives through a combination of TVL and tutoring. It is found that the Parent's lack of expression of an objection was not equivalent to her informed consent.

125. The testimony of the Parent and assistant principal differ on whether the Parent, while not expressly objecting to the TVL placement, warned the District the online program was not going to work. RP 677. There is no evidence the Parent repeated this warning to Dr. Albertson or to anyone else. To the contrary, he testified the Parent and Student spoke favorably of the Phoenix Academy experience. RP 170-171. More likely than not, the Parent's firm belief the TVL placement was not going to work grew as the family struggled to connect with the Biology and Algebra programs. This conflict is resolved in favor of the more credible testimony of the assistant principal, which finding is supported by the evidence that the Parent probably felt she had few options as of January 29, 2016. The undersigned has also given weight to the fact that the telephone conversation was not pre-planned and the Bremerton school records do not support a finding that the Student was unable to access online work.

126. The District did not issue a PWN to the Parent regarding its decision to withdraw the Student from Stadium and register him in the online TVL program.

Tutoring Service

127. The District has a process for submitting a request to a service to match a tutor with a student. RP 639, 641. The evidence is unclear whether anyone followed through and submitted a request for a tutor in January 2016, or if the fault was with the tutor service. The Parent had an unrealistic expectation that tutoring would start quickly during the expulsion period. RP 287. However, the Parent has not proven the District told her during the January 15th meeting that tutoring would start quickly. The preponderance of evidence is that tutoring can take ten days or more to match from submission of the request.

128. It is undisputed that the District staff involved in the January 15 and 20, 2016, meetings were unaware that a tutor had not contacted the family. No member of the District team followed up with the Parent to confirm the Student was being tutored. No District employee was identified as responsible for providing the tutor with a copy of the Bremerton IEP or ensuring that the tutor was familiar with the Student's annual goals and objectives.

129. The director of student services believed the District planned for the Student to receive four hours per week of tutoring. RP 613. There is no documentation of the amount of tutoring services the District intended to provide.

130. The District was sufficiently concerned about safety from violence to expel the Student and subsequently enroll him in its online program. However, there is no evidence of a safety plan for the tutor. There is no evidence the District made special arrangements for the Student to meet the tutor in a location it deemed to be safe for the Student, the tutor, and others.

131. The tutor services were to continue after the Student was enrolled in the online TVL discussed above. RP 645-646.

132. The District learned at the evaluation meeting held March 29, 2016, that the Student had not received any tutoring services. At the IEP meeting on April 12, 2016, the Parent repeated that tutoring had still not begun. The assistant principal took steps to personally expedite the tutor arrangements. The Parent and Student agreed to a Saturday meeting date but the tutor did not appear. The Parent cannot recall which District personnel she informed. RP 308. The meeting was rescheduled, but the Student had a negative reaction at the library when he saw

the tutor. The tutor looked like the person who had abused or molested him. The Parent apologized to the tutor when the Student refused to stay and meet. The Parent contacted the director of student services to arrange for a different tutor. The District arranged for a different tutor. RP 51-52; 308-309.

133. While the dates tutoring was provided are unclear, the preponderance of evidence from the cumulative recollections of the Parent, the assistant principal, and the director of student services is that the Student likely received three one-on-one tutoring sessions following the expulsion until May 23, 2016. During this same time, the Student and Parent had other appointments to schedule. Since attending Wilson High School as of May 23, 2016, the Student has received three or four one-hour tutoring sessions per week, depending on school holidays. RP 309-314.

Second Semester of Tenth Grade: Online TVL

134. The District's second semester of the 2015-2016 year began Monday, February 1, 2016. The Student's was in expulsion status through February 2, 2016.

135. The Student and Parent encountered some technological challenges in connecting to TVL from the family's home computer. The Student was eventually connected to all but two courses: Biology and Algebra. He continued in the online program until on or about May 20, 2016.

136. The Student did not receive special education services in the areas of math, reading, writing, and social/emotional functioning through the TVL online program.

137. *Algebra 1*. The District offered no credible evidence why it believed placement in second semester Algebra 1B was appropriate for the Student, given the consensus of educators, administrator and Parent that he was not ready for the rigors of Algebra 1A. But for the Parent's reference to school violence in context of mass shooting like Columbine and Marysville, in all likelihood the Student's second semester math placement would have been in Mr. Fiala's special education or LRC classroom. The findings below further support that the Student did not have the skills necessary to engage in an online Algebra class.

138. On Sunday, February 7, 2016, the TVL Algebra teacher sent the Student an e-mail with the assignments for the week with instructions about the process:

As a reminder, you watch the videos in Blackboard, take notes and ask me any clarifying questions. Then you go to math xl to do the homework, quizzes and tests. If you are new to TVL and do not have a math xl account yet I am waiting for the form I sent to you. If you were in the class last semester and were in this class as of 2/5, I sent you directions to change your math xl from Alg 1A to Alg 1B.

Week 2 Get started on Unit 6

*Watch the videos on Solving Systems by Graphing and complete the assignment in MathXLforschool.

*Watch the videos Solving by Substitution and complete the assignment in MathXLforschool.

*Watch the videos on Solving by Elimination and complete the assignment in MathXLfor school.

A system consists of two or more equations. Solving a system means you are finding the x and y values that make both equations true. You will start by graphing two lines. The intersection of those lines is your solution. Then you will solve by using two methods called Substitution and Elimination.

Have a great week. Remember communication is key!!

Exhibit D12, p. 1.

139. On Monday morning, the Student e-mailed to ask, "Do I have to register or do I already have one for MathXL." The teacher promptly responded, "No. When you send me the form we talked about this weekend I will set you up in math xl." *Id.*

140. On Wednesday, February 10, 2016, the teacher inquired if the Student had more questions. She was still waiting for him to send her the form so she could get his Math XL set up so he could start his assignments. *Id.*

141. Additional communications continued by e-mail through February 10, 2016, with the Student confused and the teacher explaining there was no a way to send things to her through Blackboard. Exhibit P16.

142. There is no evidence of communication between the Student's first semester general education and special education math teachers, and the Student's second semester general education math teacher at TVL.

143. *Biology.* On Friday, February 19, 2016, the TVL Biology teacher e-mailed the Student because four assignments were due in Biology B last Friday, and two more assignments were due that day. The teacher wrote:

One of the requirements for all TVL classes is that you make weekly progress AND contact with your teacher(s) in order to remain in the class.

In order to help you get back on track, you are required to complete the following assignments and submit them to me by 4pm on Monday, February 22:

The Structure of DNA Self Check
The Structure of RNA Self Check
Ribosomes and Protein Synthesis Self Check
Translation and Protein Synthesis Video
DNA to Protein Synthesis
DNA Virtual Extraction Lab and Questions

Please be sure to review ALL of the announcements on the site and let me know if you have any questions.

Exhibit D14, p. 3.

144. The Parent responded, "Hi, this is [Student] mom he is having a hard time getting on to the book program, the reference number that is on it won't work on it that is why he has not done his work." The teacher responded

I'm still awaiting [Student's] contact info and for him to complete his first assignment; as mentioned in previous emails and thru the online announcements; there are a number of things that the kids need to do before I sent them their textbook info.

I have emailed [Student] numerous times, even today, regarding this. I have asked him to read through the announcements AND through his emails. Once he has completed the required assignments, I'll send textbook info."

The Parent promptly responded, "So what info do you need", to which the teacher explained

I'm still awaiting [Student's] contact info and for him to complete his first assignments; as mentioned in previous emails and thru the online announcements; there are a number of things that the kids need to do before I sent them their textbook info."

The Parent replied the Student said he had sent what was requested and the Parent was again asking what the teacher still needed. She stated the Student could not get the code to work. The Parent also provided the Student's e-mail, cell and home telephone numbers. The teacher responded

[Student] has not sent me anything. He should have received a welcome email and his log in information from TVL when he registered for the class, which comes directly from TVL. Once he received his log-in information, he was asked to complete the following:

Log in to this class and select "START HERE" on the left in order to get important information about Blackboard and how the online system works. Select "Syllabus and Schedule" on the left and print out the syllabus which lists ALL of the assignments that are required for this class. Remember, you must complete ALL assignments, in sequential order, to be eligible for credit.

NOTE: In order to keep you on track, each Monday, I will provide you with a list of assignments that are due by Friday. You are welcome to work fast if you would like, but are expected to meet the weekly requirements for this class.

Select "COURSEWORK" on the left and complete the "Welcome Unit" which asks you to email specific information to me: [teacher's email address].

Once I receive your email, I will email you log in information (username and password) for your online textbook along with directions on how to access the online text.

The Parent replied that the Student "is on it he is doing other work" from TVL. The TVL Biology teacher replied that when the Student was ready to work on his Biology to follow the directions and then "I'll be able to send him his textbook log in information." *Id.*, pp. 1-2.

145. The Parent did not understand that in Biology class there were two log-ins required: a TVL log in, and a second username and password the TLV Biology teacher had not yet sent. The special Biology code would not be sent to the Student until after he completed the Welcome Unit. The Parent described the frustration she felt when she, and the Student's older sibling, were unsuccessful trying to access the Biology textbook without a code. Exhibit P15.

146. There is no evidence of communication between the Student's first semester general education teacher for Biology, in which he earned a D, and the second semester general education teacher at TVL.

147. *World History.* The Student did not successfully access the World History materials on TVL online. He completed some assignments but the teacher described the Student as "all over the place." Exhibit P18, p. 5.

148. *Teacher-initiated withdrawal.* The Parent did not understand why the District withdrew the Student from the TVL courses for Biology and Algebra. The teachers initiated the action due to lack of progress by the Student. The withdrawals occurred March 7, 2016. Exhibit P17.

149. The District did not permit the Student access to lunches, assemblies or other activities at Stadium during second semester tenth grade.

The District's 2016 Reevaluation

150. *Violence Risk Assessment.* On February 1, 2016, the Student had his first meeting with Dr. Allen R. Albertson, PsyD, for a comprehensive violence/risk assessment (VRA). The second meeting was February 5, 2016. Dr. Albertson is often contracted by the District to conduct psychological evaluations and violence risk assessments. The District's director of student services, school psychologist and assistant principal each testified about their respect for Dr. Albertson's professional reputation and skills as a clinical psychologist and school psychologist. He does good work and easily collaborates with school staff. RP 54; 423. Nevertheless, for reasons stated in findings below, each disagreed with Dr. Albertson's risk assessment and recommendations for placement.

151. Dr. Albertson submitted in mid-March 2016 a comprehensive written Psychological Evaluation. Exhibit P22. The school psychologist read the entire report, but had not received it prior to preparing an evaluation summary. The director of student services and the case manager each read the parts of Dr. Albertson's report which were later added to the amended evaluation summary. RP 55, 89. The assistant principal reviewed Dr. Albertson's report "extremely briefly." RP 682.

152. Prior to earning his doctorate in psychology in 2000, Dr. Albertson gained experience as a mental health professional, a correctional psychologist, a private psychotherapist, a guardian ad litem/ parent investigator, and school psychologist. From 2004 through 2009, he was employed by the District as a school psychologist. Since 2000, he has contracted as a consulting psychologist with school districts including this District. Exhibit P26.

153. Dr. Albertson interviewed the Student twice in the presence of his Parent. He reviewed all the assessments completed by the District. He interviewed the Parent, the school psychologist, the assistant principal, and Ms. Srey of CCS. He conducted his own assessments: the Millon Adolescent Clinical Inventory (MACI), and Reynolds Adolescent Depression Scale – Second Edition (RADS -2). He also reviewed school records provided by the District, including the PETRA, ACUTE, SIQ, and the Puyallup and Bremerton reevaluations. Exhibit P22, p. 2.

154. Dr. Albertson's overall conclusion was the Student was a moderate risk aggressive or assaultive behavior.

[Student] presents as a moderate risk to act in an aggressive and potentially assaultive manner. To the extent that risk factors are present, they reflect historical problems or aggressive behavior that is common to children in adolescence who have been diagnosed with ADHD/ODD. The risk factors that are present for [Student] have been reviewed and none relate to an eminent risk of violence at this time.

Id., p. 14.

155. Dr. Albertson considered that the Student had recently started medications and "had virtually no real imminent risk factors present at the time." He did not have a long history of assaultive behavior. The Student had never brought a weapon to school. He had never ever assaulted and caused bodily harm to another individual. He lacked suicidal ideations. Dr. Albertson gave significant weight to the fact that the precipitating factor was based on a dream. The precipitating factor was not a report that the Student had detailed a real specific plan with dates and times and individuals he planned to harm. The Student denied the dream to Dr. Albertson, which the Parent challenged in the Student's presence. Nevertheless, Dr. Albertson found the Student to have been "real upfront" and "real honest" during the interviews. Dr. Albertson believed that the Student had not been ruminating or thinking about the dream for a number of weeks. RP 161-162, 164, 170.

156. Dr. Albertson disagreed with the District's analysis of the PETRA scoring. He understood the high level of concern by District staff based on what was reported by the Parent, including that the Student was sexually molested in Bremerton, and had been traumatized by a neighbor who was in jail. However, based on his interviews and assessments, he believed the Student would be at a low level risk. His clinical judgment is not based only on the Student's responses, but that it was a dream, lacking in any real plan of implementation. The Student denied wanting to harm his family or anybody else during the February 2016 interviews. On the RADS -2 the Student had not endorsed a high level of depressed mood. He was not unlike most ADHD students that had not been medicated. RP 163-164.

157. Dr. Albertson has conducted many, many violence risk assessments and has recommended many students for out-of-district placements. Typically, such students have a history of numerous suspensions and emergency expulsions and a lengthy discipline file. The Student did not fit this typical description. RP 211. Dr. Albertson would be "on board" with an IEP team decision that a student cannot be successful in any program in the District and needs to go to a day treatment program, provided the IEP team's opinion and decision is based on a

body of evidence that would demonstrate that level of more restrictive placement needs to occur other than the dream. Here, the Student had not "put the fear of God into teachers or other students" at Stadium about his propensity or possible assaultive behavior. Dr. Albertson did not see that Student was in that state of mind in his overall social/emotional functioning. RP 215-216.

158. Regarding the Parent's report to the District on January 15, 2016, Dr. Albertson believed the Parent and family initially erred on the side of caution in response to the dream. Dr. Albertson stated it was important to "start peeling the layers off" regarding the Parent's many worries about the Student killing the family, the Student being aggressive, that he may kill people at school, that he did not get along with his 12-year-old sibling. Dr. Albertson's opinion was that it was not really likely that the Student was really dangerous or likely to kill his family. RP 215. As for the dream, Dr. Albertson stated:

We all have dreams, and if we shared our dreams with significant people in our lives, we'd have a lot of kids that were going to day treatment programs all over the country. We wouldn't have room for them all.

RP at 214. Dr. Albertson distinguished between dreams and ideations. A dream involves the Student's unconscious. Dr. Albertson and other practitioners would pay attention if the Student had an adamant attitude that he was in fact going to kill his family no matter what we do or CCS is doing or the school district is doing. RP 215.

159. *School-based counseling.* Dr. Albertson's recommendations included "school-based counseling." The District misinterpreted the recommendation to support a day school placement. Dr. Albertson explained he meant that a student with an ADHD diagnosis often needs structure to start the day in the morning, somebody to go to in the course of the day if there are issues regarding impulsive behaviors. A student's impulsive behaviors can cause friction between the student and peers and teachers, and knowing that there is a trusted adult in the building available to help problem solve helps the student become more independent. The counseling would be specific to the counselor in a particular school building. Dr. Albertson has worked with counselors who are very good at brief solution focused interventions, while others use a check-and-connect process morning, midday, and end of day to assess what went well or did not go well. He expected a certified school counselor's efforts would be in addition to any outpatient therapy or mental health services the family follow-up with CCS or other provider. RP 168-170.

160. If the family opted to not pursue mental health counseling for the Student, including therapy related to the sexual molestation, Dr. Albertson would not necessarily change his opinion about least restrictive setting. The same issue is presented by lack of medications. Stopping medication or mental health counseling would raise the level of important for the school-based counseling to be part of the Student's IEP. Possibly, a related service such as a social worker or behavior specialist might be considered by an IEP team in future. RP 207-208.

161. *Alternative school.* Dr. Albertson's recommendations also included an alternative school. Dr. Albertson opined that online learning through TVL was at best a short-term solution to help stay abreast until he got back to school. Dr. Albertson described one-to-one tutoring as a highly restrictive setting. RP 188. He talked with the Parent and Student about a more structured school day away from a large comprehensive high school. He thought such a placement would

make sense given the experience the Parent and Student reported with the Phoenix Academy in Bremerton and Renaissance Academy. RP 170-171. Dr. Albertson worked at the District's Oakland alternative learning program about eight years ago, but had no recent familiarity with the administrators, counselors, and teachers. RP 171. He was also familiar with separate day schools: ReLife, Northwest School of Innovative Learning (SOIL), Overland, and Firwood. Dr. Albertson had not intended his recommendation to mean a separate day school. RP 172. At the time of his report, mid-March 2016, Dr. Albertson was recommending an alternative school in the District as the least restrictive setting for the Student. RP 174-175. He opined that it was a "quantum leap" for the District to recommend the Student move to an out-of-district day treatment program. He would have tried the least restrictive setting, get the Student stabilized on his medication, have him participate in outpatient therapy, and manage his regime with medication. If the Student stopped taking his medication, which sometimes happens, and his behavior became more difficult for him to manage, Dr. Albertson opined that a need for a more restricted setting would be an IEP team decision at that later point. RP 175-176.

162. Dr. Albertson spoke to the school psychologist about his recommendations and conclusions. He did not speak to any other district employee about his recommendations and conclusions. RP 177.

163. Dr. Albertson learned from the school psychologist that the Student had an incident at home that resulted in respite stay with his older brother in Bremerton for several days. He could not recall if he learned the information before submitting his final report, but it would not have changed his recommendations. He did not understand the Student had been extremely assaultive toward anybody in the family or had done bodily harm. The behaviors of someone diagnosed with ADHD and ODD include arguing and threatening and defiance. RP 202-203.

164. Regarding CSS, Dr. Albertson understood they provided a 90-day intensive home intervention program of crisis intervention and management. He understood the Parent and Student were comfortable with the safety plan at home. He understood CSS had a scheduled weekly appointment, and was also available as needed. RP 160, 203-205.

165. The school psychologist recalls she received Dr. Albertson's report on March 14, after she had sent the evaluation summary and meeting invitation for March 9, 2016. RP 426. The IEP team did not review the entirety of Dr. Albertson's report as a group. They discussed those portions of Dr. Albertson's report that had been cut and pasted by the school psychologist into the evaluation summary when amended at Parent's request. RP 438-439.

166. *District Assessments: Academic.* The school psychologist administered the Student a Woodcock-Johnson IV Tests of Achievement Form A and Extended (Norms based on age 16-0). The assessment was completed on February 11, 2016. Relevant to this appeal is that the Student scored significantly higher than previously and showed strength in the area of Math Calculations and Applied Problems. His performance in reading and writing were commensurate with previous testing results and his skills in these areas fall within the low average range. The school psychologist opined that due to the pervasive nature of his Health Impairments, special education services should be continued in the areas of reading, writing and math. Exhibit D18, p. 10.

167. *District Assessments: Cognitive.* The school psychologist met with the Student again on February 26, 2016 and administered the Cognitive Assessment System (CAS). Relevant to this

appeal is that the Student manifested weakness in the areas of planning and attention consistent with characteristics associated with ADHD. The processing weaknesses may adversely impact the Student's ability to apply his academic knowledge in an academic setting as well as employ the use of self-management strategies. The school psychologist opined that the Student was slow to process visual information but did well when given the time to do so. He evidenced strength in the areas of simultaneous processing and successive processing. He is able to integrate visual and verbal information simultaneously and exhibits strong linear thinking. The Student may respond well to academic material presented visually in a step by step manner accompanied with verbal explanations. The student may require extra processing time when introduced to new material. *Id.*, pp. 8-9.

168. *District Assessments: Social/Emotional/Behavioral.* The District used the Behavior Assessment System for Children, 2nd Edition (BASC 2) rating scales for teachers, parents, and students. The Student's general education math teacher, Ms. Maxwell, and his special education self-advocacy co-teacher, Ms. Behope, each completed the rating scales. The validity index for each indicated valid reports, with the exception of the general education math teacher where the "F" factor may indicate an overly negative response pattern. The scales scoring in the clinically significant range identifies an area suggesting a high level of maladjustment. Scores in the at-risk range identify a significant problem that may not be severe enough to require formal treatment or may identify the potential of developing a problem that needs monitoring. *Id.*, pp. 11-13.

169. The Student endorsed the following:

School composite: at-risk
Attitude toward teachers: at-risk
Sensation seeking: at-risk
Inattention/hyperactivity: clinically significant

The Student did not endorse indicators of internalizing problems, emotional symptoms or personal adjustment. *Id.*, p. 14.

170. The critical items endorsed by the Parent included:

Is cruel to animals: sometimes
Threatens to hurt others: sometimes
Hits other adolescents: sometimes
Bullies others: often
Sleeps with parents: sometimes (due to living circumstances, [Student] sleeps on the floor)
Is easily annoyed by others: often

Id., p. 14.

171. The critical items endorsed by the teachers included:

Threatens to hurt others: often
Bullies others: often (who), sometimes (who)
Is easily annoyed by others: often

Smokes or chews tobacco at school: sometimes (who)

Id., p. 14.

172. The District also considered three assessments completed January 20, 2016, to assess Student in the area of social/emotional/behavior: a Suicidal Ideation Questionnaire (SIQ), and the ACUTE and PETRA.

173. The Parent raised questions about the validity of the January 20th assessments results. The school psychologist did not recall the transportation arrangements made for the Student to report for the January 20th assessments. RP 522. The Parent credibly testified and it is found that when the District called to schedule the January 20th assessments, the Parent explained she was working as Tuesdays are dialysis days. The Parent understood the District would send somebody to pick up the Student. She agreed, not knowing who the District would send. The Parent was unaware of the District's routine practice of using the school resource officer to transport students. The Parent was upset the Student was transported from home to school and back in a police car. RP 283-284.

174. The assistant principal described the school resource officer as a "friendly fabulous kid advocate" who was not the "scary police." The assistant principal described referred to him as a well-known "friendly" at Stadium, frequently welcoming and talking to kids and at lunch. She did not know whether the Student had any relationship with the school resource officer, and did not think it necessarily so that a ride in a police car might have impacted his answering questions for the PETRA screener. RP 681-682. The evidence does not prove how the Student interacted with the school resource officer. The evidence does not prove how the Student felt about the mode of transportation.

175. The SIQ revealed the Student did not evidence significant suicidal ideation characteristics. Exhibit D18, pp. 13, 15.

176. On the PETRA scoring, the Student chose "disagree a lot" when asked if he thought about killing himself. Exhibit D9, p. 3. For reasons not credibly explained by the District, its team nevertheless estimated the Student's suicide risk as "high". They rejected low (no current ideation) and medium (previous attempt, meds for mood, risk taking behavior) risk estimations. The distress form described "high" risk of suicide as "current thoughts, plans or note, gave possessions away, refusal to sign no harm contract." The District had no facts to support the examples of suicidal risks.

177. The distress form also had the team estimate the violence risk presented by the threat/incident reported at the January 15, 2016, meeting. The District team considered that the PETRA and ACUTE scores supported a high/serious estimated violence risk. The form described the high/serious violence risk as "direct, specific, plausible, requires immediate police or mental health contact." Exhibit D9, p. 1. The Parent's description of the Student's dream and the aftermath of his request for help reasonably supported the team's estimation as of January 20, 2016. The reasonableness of the District's estimation after receipt of Dr. Albertson's report is addressed below.

The District's Evaluation Summary

178. The school psychologist explained how she completed an evaluation summary and scheduled a reevaluation meeting for March 9, 2016. She noted that the VRA would be completed concurrently but made no mention of Dr. Albertson's findings as she had not yet received them. She issued a meeting invitation to Dr. Albertson. Exhibit D18.

179. The District learned the Parent would attend the reevaluation meeting with an attorney. The meeting was rescheduled so that the District could arrange for its attorney to attend, too. The reevaluation meeting and IEP meeting were rescheduled for March 29, 2016. The school psychologist was not involved in the rescheduling or the reissuance of meeting invitations. The District chose not to invite Dr. Albertson to the March 29, 2016, reevaluation meeting. Exhibits D19, P21.

180. The Parent was dismayed that the District's evaluation summary failed to include Dr. Albertson's conclusions and recommendations. Also, the Parent was dismayed at the high risk level for violence estimated by the District. She disagreed with the statement that Catholic Community services had confirmed the threat level during the January 15, 2016, meeting. Exhibit D18, p. 2. After listening to Ms. Strey's description of her role and that she had not made a statement confirming that the Student presented a high risk for violence, the District agreed to amend the evaluation summary. The amended evaluation summary simply noted CCS was present at the January 15 meeting. The amended evaluation summary also added information from Dr. Albertson's report. Exhibit D20, pp. 2-4.

181. The cumulative testimony of the District members of the reevaluation team supports a finding that great weight was given to personal impressions or reports of personal impressions of the Parent's distress and expression of fear of the Student at the January 15, 2016, meeting. The District members viewed with suspicion all later statements by the Parent, Ms. Strey, or the Student that her fears were overstated as "backpedaling" once faced with the consequences. RP 129, 579, 586-588.

182. The District members also gave weight to the report by the school psychologist of a telephone conversation with the Parent which occurred in the midst of family strife. The Parent had contacted CSS to ask the Student be removed from the home following an argument. The Parent and Student were awaiting CSS to transport the Student for a respite to the home of an older sibling. The school psychologist was impressed enough by the Parent's words and tone that she asked if help from 9-1-1 was needed. She also heard the Parent tell Student to stay on the couch, and the school psychologist heard what sounded like pushing or shoving. The Parent was not physically harmed but fearful given the level of argumentative behavior of the Student. Immediately after the call, the school psychologist sought the advice of the school resource officer and others. She also informed Dr. Albertson when they spoke about his report. The fact Dr. Albertson did not mention the incident in his report to her would ordinarily mean that he did not see it as significant. The school psychologist expected Dr. Albertson would have spoken to the Parent and learned more about the meeting. There is no evidence that other District team members were aware of the school psychologists expectations of Dr. Albertson's follow-up with the Parent described above. There is no evidence any mandatory reporter with knowledge of the Parent's respite request called the police or child protective services. RP 539-541.

183. Based on the above findings, it is found that the Parent's request for respite was given too great of weight by the District team. The District's failure to invite Dr. Albertson to the

evaluation meeting or to the IEP meeting contributed to their misunderstanding of the significance of the event.

184. As noted in the above findings, the District misinterpreted Dr. Albertson's recommendations regarding school-based counseling and about an alternative school rather than a comprehensive high school like Stadium. They incorrectly interpreted Dr. Albertson's report as supportive of an out-of-district day school placement. The District's failure to invite Dr. Albertson to the evaluation meeting or to the IEP meeting contributed to their misunderstanding and hindered their ability to consider his professional, objective judgment. Dr. Albertson could likely have added to the conversation regarding District concerns about "backpedaling" to avoid the consequences of having reported potential school violence.

185. The District issued a PWN on March 29, 2016, to propose to change the educational placement and implement a new IEP for the Student at a separate day school. The initiation date was proposed for March 30, 2016. At a second meeting convened April 12, 2016, the District updated the PWN and changed the date it proposed to initiate the action to April 25, 2016. The Parent did not agree. Exhibit P23, pp. 1, 19.

186. The District issued another PWN on April 12, 2016, to propose to provide the Student with compensatory education services during the 2016 summer break period. The District made the offer because the Student was supposed to have been receiving tutoring services concurrent with participating in the District's online TVL. The District did not specify any other details about the compensatory offer. Exhibit P24. The director of student services explained it made more sense to be more specific once the Parent and District had an agreement moving forward on where the Student would be going to school. RP 42.

The District's Proposed IEP dated April 12, 2016

187. The findings below focus on the portions of the April 12, 2016, proposed IEP relevant to this dispute.

188. The Student had 2.23 cumulative credits and needed 24 credits to graduate. He should have earned 9 credits by that period of his sophomore year. Exhibit P23, p. 9.

189. The annual goals in reading, written expression, math and social/emotional/behavioral areas were similar to those in the Bremerton IEP. One of three social/emotional/behavioral goals focused on when the Student felt antagonized or annoyed by others. The goal was to use coping skills and strategies to avoid confrontation improving self-regulating skills and ability to interact with others. Exhibit P23, pp. 10-11. The IEP did not include a behavioral intervention plan. The District recommended program accommodations and modifications which continued many of the adaptations in the Bremerton IEP. Specifically related to behavior, the District's IEP provided for:

- Breaks available when frustration level escalates
- Clear expectations for behavior
- Close proximity to staff/teacher
- Use of positives to encourage behavior and performance
- Provide an area for sensory breaks to calm down and become refocused with the use of a headphone

Id., pp. 13-14.

190. The District proposed the following special education and related services starting March 30, 2016 and ending March 29, 2017:

Concurrent	Service	Provider	Monitor	Frequency	Location
No	Counseling	Counselor	SpEd Tchr	60 mins/ twice wkly	Special Education
No	Math	SpEd Tchr	SpEd Tchr	53 mins/ 5 times wkly	Special Education
No	Reading	SpEd Tchr	SpEd Tchr	53 mins/ 5 times wkly	Special Education
No	Social Emotional/ Behavioral	SpEd Tchr	SpEd Tchr	106 mins/ 5 times wkly	Special Education
No	Written Expression	SpEd Tchr	SpEd Tchr	53 mins/ 5 times wkly	Special Education

The frequency amounts result in 1445 minutes per week in a special education setting, with 19.72% in a general education setting, for a total of 1800 minutes per week. *Id.*, p. 16.

191. The District's placement considerations for least restrictive environment (LRE) conflict with the above graph of minutes in special education setting. *Id.*, p. 17. The District's IEP states the team rejected placement options in a regular class, from 0-39%, 40-79%, and the Bremerton IEP placement of 80-100% in regular class. The reasons given for rejecting regular class placement were: that academic benefit could not be satisfactorily achieved, and the effect the student would have on teachers and other students.

192. The IEP team considered Oakland, the District's alternative school, and District members thought it was not appropriate. There was little discussion, however, because the District's focus was on school-based counseling. District team members, particularly the director of student services, did not believe the District had personnel on staff qualified or available to provide the level of school-based counseling the Student needed. The Student is not old enough to attend Willie Stewart Academy. The primary reason the alternative learning or therapeutic learning settings were rejected were due to the belief by the District team members that the Student needed counseling services provided in a school setting. RP 565-567.

193. The District provided the Parent with names of day schools: SOIL in Tacoma; ReLife, located off River Road in Puyallup; Overlake, located in Bellevue; and Firwood, located in the Clover Park School District in Steilacoom. None of the day schools offer any general education settings. All of the students in the day schools are disabled. *Id.*

194. If the Parent agreed to a placement at ReLife, the director of student services estimated transportation at District expense door to door would be about half an hour. The director of student services commutes to work from a greater distance of 45 to 50 minutes, and believed ReLife to be about halfway. His estimation of the time is deemed credible. RP 616-617.

Parent's remedies

195. The Parent opposes the District's proposed day school placement. The preponderance of evidence establishes that the passage of time and events have impacted the Parent's placement references. She and the Student considered favorably an alternative school setting when speaking with Dr. Albertson in February 2016. At hearing, the Parent preferred placement at another of the District's comprehensive high schools. Since May 23, 2016, the Student had been attending Wilson High School pursuant to the stay-put order. The Parent is pleased with that placement. She reported the Student likes Wilson, likes the tutor, is eager to continue at Wilson in fall 2016, and interested in the school's ROTC program. RP 314-316, 514. The Student and Parent have transitioned from the initial 90-day program to another CSS program of longer duration.

196. The assistant principal at Wilson, Shane Silva, reported the Student's behavior had been fine in the three weeks he had attended. He described it as still in the honeymoon period. He had some concerns about how the Student would perform in the fall 2016, if he continued at Wilson, but did not elaborate. The primary concern of the Wilson teachers was how far behind the Student was academically. RP 709-710. District's second semester ended for high school students on June 17, 2016, two days following the hearing. Exhibit D27.

197. Mr. Silva learned of the District's challenge providing the Student with a tutor through the standard service used by the District. Mr. Silva arranged for a teacher at Wilson to tutor the Student at the end of the school day. Mr. Silva reported the Student was working well with the tutor, meeting three or more days per week. RP 709-710.

198. The Parent and Student visited ReLife and toured the facility. The Parent described the school as locked down, secluded, like a mental institute. She understood from ReLife staff that the school was a good fit for a child with more troubles than the Student. She understood it was an option of last resort, after every other option in the book had failed. The Parent found that ReLife was not a good fit for the Student. RP 302-303.

199. The Parent requests the District provide the Student with more time in general education than proposed in the recent IEP. She requests that he have access to socialize and communicate with non-disabled peers. She requests that the Student have access to the spectrum of activities offered to general education students. The Parent believes these requests are vital to meeting the Student's social/emotional/behavioral needs.

200. The Parent requests an award of compensatory education to make up for failure to provide SDI from January 19, 2016 through May 23, 2016. The Parent relies on the testimony of the director of student services of 20 minutes of individual tutoring for each hour of SDI class. RP 594-598. The Parent claims the Student had three special education classes for seventeen school weeks. The Parent asserts in closing argument that she has proven a conservative compensatory award of 300 minutes of one-to-one tutoring for each week of school the Student missed. This total equates to 85 hours of compensatory education.

201. The Parent also asserts in closing argument that she has proven the Student is entitled to an additional 34 hours of one-to-one tutoring to make up for the one hour per week of individual tutoring for each week he was unable to meaningfully access the online TVL classes from which he was dropped (Biology) or could not successfully navigate (World History).

Consistent with her argument would be similar compensatory education to make up for the lack of math in second semester, although hours were not calculated in the closing argument.

202. The Parent recognized the equitable nature of compensatory education, and conceded in closing argument the hours of tutoring received at Wilson, and the two one-hour sessions he missed, should be deducted from an award of compensatory education. The Parent asserts that any failures of the Student to receive tutoring after April 12, 2016 and before May 23, 2016, were few in number and for primarily for reasons not the fault of the Student.

203. The Parent also asserts in closing argument that she has proven the District should provide compensatory education for failing to appropriately implement the Bremerton IEP, or failing to consider or implement a BIP, from October 16, 2015, through January 15, 2016. For these 11 school weeks excluding winter break, at a conservative 1 hour per week, the Parent requests an additional 22 hours of one-to-one tutoring.

204. The Parent also requests additional remedies in the form of requiring training for District administrators about youth mental health. The director of student services and the assistant principal had not been trained specifically about mental health, beyond using risk screeners. RP 581, 688-689. The Parent asserts in closing argument that mental health training opportunities are publicly posted and available through OSPI. The Parent asserts in closing that the need for mental health training is supported by the evidence of administrator responses to mental health needs in the home, and their inability to be open thereafter to considering the recommendations of Dr. Albertson, or considering the Parent's statements in any context other than backpedaling.

205. The Parent also requests attorneys' fees and costs related to the appeal.

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 U.S.C. §1401 *et seq.*, the Individuals with Disabilities Education Act (IDEA), Chapter 28A.155 Revised Code of Washington (RCW), Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated thereunder, including 34 Code of Federal Regulations (CFR) Part 300, and Chapter 392-172A Washington Administrative Code (WAC).

2. The burden of proof in an administrative hearing under the IDEA is on the party seeking relief. The Parent requested the hearing and has the burden here. *Schaffer v. Weast*, 546 U.S. 49 (2005).

The IDEA

3. The IDEA and its implementing regulations provide federal money to assist state and local agencies in educating children with disabilities, and condition such funding upon a state's compliance with extensive goals and procedures. In *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982) (*Rowley*), the Supreme

Court established both a procedural and a substantive test to evaluate a state's compliance with the Act, as follows:

First, had the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the state has complied with the obligations imposed by Congress and the courts can require no more.

Id. at 206-207 (footnotes omitted).

4. A "free appropriate public education" consists of both the procedural and substantive requirements of the IDEA (formerly the EHA). The *Rowley* court articulated the following standard for determining the appropriateness of special education services:

[A] "free appropriate public education" consists of education instruction specifically designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child 'to benefit' from the instruction. Almost as a checklist for adequacy under the Act, the definition also requires that such instruction and services be provided at public expense and under public supervision, meet the State's educational standards, approximate the grade levels used in the state's regular education, and comport with the child's IEP. Thus, if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other items of the definitional checklist are satisfied, the child is receiving a "free appropriate public education" [FAPE] as defined by the Act.

Id. at 188-189.

5. A district is not required to provide a "potential-maximizing" education in order to provide FAPE, but only a "basic floor of opportunity" that provides "some educational benefit" to the Student. *Id.* at 200-201. A district must provide Student with a "meaningful benefit" in order to satisfy the FAPE requirement. *M.M. v. Lafayette School*, 767 F.3d 842, 852 (9th Cir. 2014).

6. Procedural safeguards are essential under the IDEA:

Among the most important procedural safeguards are those that protect the parents' right to be involved in the development of their child's educational plan. Parents not only represent the best interests of their child in the IEP development process, they also provide information about the child critical to developing a comprehensive IEP and which only they are in a position to know.

Amanda J. v. Clark County Sch. Dist., 267 F.3d 877, 882 (9th Cir. 2001).

7. Procedural violations of the IDEA amount to a denial of FAPE only if they:

(i) impeded the child's right to a free appropriate public education;

- (II) significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education to the parents' child; or
- (III) caused a deprivation of educational benefits.

20 USC §1415(f)(3)(E)(ii). See, *W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23*, 960 F.2d 1479, 1484, 18 IDELR 1019 (9th Cir. 1992); accord *R.B. v. Napa Valley Unified Sch. Dist.*, 496 F.3d 932, 938, 48 IDELR 60 (9th Cir. 2007).

Failing to implement the Student's April 14, 2015 IEP during the 2015-2016 school year

8. The IDEA does not require that a school district perfectly implement an IEP in order to provide the student with FAPE. A material failure to implement the IEP amounts to a denial of FAPE. On the other hand, minor discrepancies between the services a school provides and the services required by the IEP do not violate the IDEA. *Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811 (9th Cir. 2007).

"[S]pecial education and related services" need only be provided "in conformity with" the IEP. [20 USC §1401(9)] There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education.

We hold that a *material* failure to implement an IEP violates the IDEA. A material failure occurs when there is more than a minor discrepancy between the services a school provided to a disabled child and the services required by the child's IEP.

Van Duyn, supra, 502 F.3d at 821 and 822 (italics in original).

9. *First semester.* The Parent asserts the District failed in first semester by failing to implement accommodations or modifications (adaptations is the term in the April 2015 IEP) and behavior goals. The Parent asserts the failure by the District impacted the Student's ability to progress toward his academic goals. The case manager did not recognize the April 2015 IEP at hearing, and the adaptations and behavioral goals were not placed into the District's online IEP system. However, the testimony of the case manager, of Ms. Maxwell's the general education math teacher, and the mid-October 2015 e-mail string are evidence of efforts to implement adaptations and discuss strategies to meet the Student's behavioral needs. The Parent has not proven the District materially failed to implement the adaptations and behavior goals in the Bremerton IEP during the first semester of the 2015-2016 school year.

10. *Second semester.* The District admits that the sole method by which it planned to meet its obligations to implement the adaptations and behavior goals in the April 2015 IEP starting February 3, 2016, when the expulsion ended, was through the services of a one-on-one tutor. A tutor met one-on-one with the Student in the period between April 12, 2016 and May 23, 2016, for about three sessions. There is no evidence of the tutor's familiarity with the April 2015 IEP or the District's proposed IEP of April 2016. The Parent has proven the District materially failed to implement the adaptations and behavior goals in the April 2015 IEP during second semester through May 23, 2016, which constituted a violation of IDEA and denied the Student FAPE.

11. In reaching the above conclusion, the undersigned does not include the time period of the ten school-day expulsion. The District had no legal obligation under the IDEA to provide SDI or related services to the Student during the short-term expulsion. The Parent has failed to prove the District materially failed to implement the April 2015 IEP during the short-term expulsion.

Failing to identify, assess, develop, and/or implement a functional behavior assessment and behavioral intervention plan for the Student

12. A behavior intervention plan (BIP) is a plan incorporated into a student's IEP if determined necessary by the IEP team for the student to receive FAPE. WAC 392-172A-01031. The focus of the Parent's evidence and argument is on first semester, particularly the period after mid-October 2015. The evidence does not support the Parent's claim. The teachers' e-mail references about whether to consider a BIP are not sufficient to prove that a BIP was needed for the Student. On the contrary, the Student's behavior in the math inclusion class improved after another student was transferred to another class. The teachers' strategy of separating two students proved effective. The evidence does not prove the Parent's claim that failure to develop and implement a BIP in October 2015 had a negative impact on the Student to the extent the District proposed a more restrictive IEP in April 2016.

13. The Parent has not proven the Student needed a functional behavioral assessment (FBA) and BIP prior to January 15, 2015. The Parent does not claim a violation by the District thereafter, or challenge the lack of a BIP in the proposed April 2016 IEP.

Failing to complete progress reporting as required by the April 14, 2015 IEP

14. A district's obligation under the IDEA is to measure annual progress toward IEP goals in the areas of reading, math, written language, and social emotional behavioral. WAC 392-172A-03090(1)(c)(ii); 34 CFR § 300.320(a)(3). The regulation does not use the term "report card" although the 1997 IDEA reauthorization included congressional committee reports where the term "IEP report card" was used S. Rep. No. 105-17, 105th Cong., 1st Sess. 22 (1997); H.R. Rep. No. 105-95, 105th Cong., 1st Sess. 102 (1997). The regulations do not specify the exact content of the reports, or the remedy for failure to issue periodic reports of progress toward IEP goals.

15. A district's failure to provide progress reporting data can be a procedural violation that results in a denial of FAPE. *M.M., supra*, 767 F.3d at 855-856 (9th Cir. 2014).

16. The Parent has proven that the Interim Grade Report the District issued in November 2015 did not measure Student progress by the measures identified in his IEP. The Parent proved that the online list of status of class assignments and grades for completed assignments did not measure Student progress by the measures identified in his IEP. The District's teachers did not track or measure the goals and objectives set forth in the Student's April 2015 IEP, particularly regarding behavioral incidents. A less serious fact pattern is when a district measures according to the IEP but fails to timely report the measurements to the parent. Here, there is a more serious fact pattern. The District did not measure according to the IEP, and also did not timely report the measurements because it no IEP data to report. The District's failure to measure goals and objectives as planned by the IEP constitutes a serious and substantive violation of the IDEA.

Failing to allow Parent to participate in educational decisions

17. The IDEA requires that parents have the opportunity to "participate in meetings with respect to the identification, evaluation, and educational placement of the child." WAC 392-172A-03100; 34 CFR §300.322. To comply with this requirement, parents must not only be invited to attend IEP meetings, but must also have the opportunity for "meaningful participation in the formulation of IEPs." *H.B. v. Las Virgenes Unified Sch. Dist.*, 239 Fed. Appx. 342, 48 IDELR 31 (9th Cir. 2007). By extension, this applies to the meaningful participation in the evaluation process.

18. *Communication.* The Parent claims the District refused to communicate with her by telephone, insisting on e-mail communication. The Parent claims that the District failed or refused to schedule an IEP meeting at her request prior to January 15, 2016. The preponderance of evidence simply does not support the Parent's claims.

19. *Changing placement to TVL.* The District did not provide the Parent with a reevaluation or an IEP meeting before it changed the Student's placement for second semester from Stadium to TVL online. The District's action constituted a change of placement from the placement in the April 2015 IEP. The Student's access to non-disabled peers was removed entirely. The Student was removed from access to lunch, assemblies and other activities available to the District's general education students. The TVL program was 100% general education and not compatible with implementing the IEP adaptations. The TVL program was not appropriate given the Student's inability to stay on task and complete assignments without frequent and sustained interventions by a teacher. Furthermore, the placement in second semester general education online class for Algebra 1B was inconsistent with the Student's recognized and undisputed need for a more restrictive, slower paced, less rigorous special education math class. Had a meeting been conducted, the evidence is overwhelming that a placement in Algebra 1B second semester general education class would have been rejected by teachers and Parent.

20. For the reasons stated, the Parent has proven that the District did not provide her with an opportunity to meaningfully participate in the decision to change the Student's placement from Stadium to the online TLV program. This is a procedural violation of the IDEA.

21. *Parent's suggested placement options.* The Parent asserts the District failed to consider less restrictive placement ideas which she suggested at the March 29 and April 12, 2016, evaluation and IEP meetings. Some evidence supports the Parent's claim: the decision not to invite Dr. Albertson (after initially inviting him to the earlier March meeting); that only the school psychologist read Dr. Albertson's full report; that the school psychologist's understanding about the meaning of Dr. Albertson's failure to include in his report a reference to the respite stay, were not shared with the other team members; that no other expert provided an opinion to the team regarding the difference between dreams and ideations; and, the failure to discuss in detail the alternative school settings as a result of the District misinterpreting Dr. Albertson's recommendation of school-based counseling. Probably, the pervasive belief the District needed to ensure that mental health counseling continued in a controlled, school-based setting limited discussion of the Parent's proposed placement options. It was not unreasonable under these facts for the District to want to provide counseling within a school setting. The District staff knew they could not require the Student to continue medication treatment or continue to participate in

private counseling. Conversely, the District staff knew they could control the services provided in a school setting. In that context there is a reasonable rationale for rejecting the Parent's proposed less restrictive settings. And, a decision to reject a proposal does not necessarily equate to not considering the proposal. However, the District also controlled who it invited and paid to attend the meetings. One of the most significant facts in this analysis is that if the District had continued to include Dr. Albertson when the meetings were continued, his participation would likely have been significant. Had Dr. Albertson been a participant the misinterpretations of his report would not have continued, his distinction between dreams and ideations may have helped allay or counter the overwhelming impression left by the Parent at the January 15th meeting, and he could have provided an objective voice to the discussion about backpedaling.

22. For the reasons stated above, the preponderance of evidence favors the Parent on the issue of failing to consider her less restrictive placement ideas. The Parent has proven the District failed to allow her meaningful participation in the discussion of less restrictive placement ideas. This is a procedural violation of the IDEA.

23. The Parent has proven two procedural violations of the IDEA related to failing to allow parental participation. She has proven these two failures each significantly impeded the Student's right to FAPE, and significantly impeded the Parent's opportunity to participate in the decisionmaking process regarding the provision of FAPE to the Student, and caused a deprivation of educational benefits. The Parent has proven the District's procedural violation resulted in a denial of FAPE.

Failure to conduct a reevaluation before proposing to change the Student's placement from a high school setting to an online school

24. A district must conduct a reevaluation when it "determines that the educational or related services needs. . . warrant a reevaluation." WAC 392-172A-03015. The Parent asserts that a reevaluation was required before the District moved the Student from a comprehensive high school to an online school. The Parent's closing brief cites to *In Re Central Valley Sch. Dist.*, 2014-SE-0008, Conclusion of Law 8:

Case law clearly establishes the proposition that prior to any substantial or material change in a student's educational placement, a school district should conduct a reevaluation, particularly when the new placement is a more restrictive placement. *Board of Educ. of City of White Plains*, 20 IDELR 1475 (SEA NY 1994); *Brimmer v. Traverse City Area Pub. Sch.*, 22 IDELR 5 (W.D. Mich. 1994). This is also the position of the Office of Civil Rights (OCR). *Kelso (WA) Sch. Dist. No. 4*, 20 IDELR 1003 (OCR 1993); *Mobile County Sch. Dist.*, 19 IDELR 519 (OCR 1992). In *Kelso*, OCR remarked that the Office of Superintendent of Public Instruction (OSPI) for Washington State also investigated the same issue OCR investigated pursuant to a state citizen's complaint. OSPI "determined that the [Kelso School] District failed to comply with certain State special education requirements, including failing to evaluate the students prior to changing their placements." *Kelso, supra*.

The Parent also cites as support for her position OSPI's *Technical Assistance Paper No. 5 -- Revised*, Feb. 2012, with a link to the OSPI website.

25. The Student's April 2015 IEP placed him in a general education setting for 88% of the school day in September 2015. As a result of the Parent's report, and not due to school-based behavior of the Student, in February 2016 the District placed the Student in an online program to be accessed 100% from home. The District's closing argument asserts the Student remained in general education setting. The District's suggestion that the Stadium setting was a similar placement to the home based online TVL setting since both were general education settings is not supported by the evidence. The TVL program expected self-initiation skills far beyond those possessed by the Student. The TVL program was not typically for more than two classes. The placement deprived the Student of all interaction with peers, disabled and non-disabled. These examples are not an exhaustive list of facts supporting that the change did constitute a change in placement.

26. The District wholly failed to document the SDI services it said it expected would supplement TVL to meet its obligations under the April 2015 IEP. The provision of one-on-one tutoring is a substantial change from the April 2015 IEP setting, and the setting approved by the Transfer Review: two co-taught inclusion classes, two general education classes, and special education self-advocacy class.

27. For these reasons, the Parent has proven the District was obligated to conduct a reevaluation before proposing to change the Student's placement from Stadium to TVL. This constituted a procedural violation of IDEA.

28. The result of the violation was that discussion about the details of TVL did not occur: its appropriateness for the Student given his behavioral needs, a full discussion of stress factors in the home environment, supports that would be needed to ensure the Student accessed each online course and then stayed on track, and details of tutoring services to supplement the TVL online program. The Parent has amply proven the District's procedural violation significantly impeded the Student's right to FAPE, significantly impeded the Parent's opportunity to participate in the decisionmaking process regarding the provision of FAPE to the Student, and caused a deprivation of educational benefits. The Parent has proven the District's procedural violation resulted in a denial of FAPE.

Failing to issue appropriate notice when the District changed the Student's placement

29. A district must provide prior written notice (PWN) to the parents of a child eligible for special education a reasonable time before it proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student. WAC 392-172A-05010; 34 CFR 300.503(a).

30. As stated above, the District's action did constitute a change in placement. The Parent was entitled to receive a PWN when the District decided on or about January 20, 2016, to change the placement from the comprehensive high school setting of Stadium to the home-based online TVL program with tutoring. The failure to provide the notice to the Parent was a procedural violation.

31. For the reasons stated above regarding failure to conduct a reevaluation before proposing to change the placement, the failure to issue appropriate notice significantly impeded

the Student's right to FAPE, significantly impeded the Parent's opportunity to participate in the decisionmaking process regarding the provision of FAPE to the Student, and caused a deprivation of educational benefits. The Parent has proven the District's procedural violation resulted in a denial of FAPE.

32. It was not unreasonable under the facts presented here for the District to issue a PWN to offer compensatory education before the Parent and District members of the IEP team discussed the specifics of measuring the services the District needed to make up, and the amount of time required to compensate the Student for the loss. The Parent has not proven the PWN issued by the District to propose compensatory education to make up for the absence of a tutor, to be provided during summer break 2016, was so vague that it violated WAC 392-172A-05010. The Parent has not proven a procedural violation regarding the April 12, 2016, PWN.

Failing to place Student in the least restrictive environment

33. The Parent asserts the District's proposed April 2016 IEP failed to include a placement in the least restrictive environment consistent with the evaluation. The Parent also asserts the District failed to have a full continuum of services available within the District's schools to meet the Student's needs within the least restrictive environment.

34. A student's right to placement in his/her LRE is both a procedural and substantive right. Substantively, it is independent of the obligation to provide FAPE and is not amenable to the FAPE analysis put forth in *Rowley, id.*, and its progeny such as *Target Range, id.* See *Greer by Greer v. Rome City Sch. Dist.* 967 F.2d 470 (11th Cir.1992). School district failures to provide a student FAPE in the least restrictive environment have routinely resulted in determinations that a placement was not appropriate. See *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398 (9th Cir. 1994).

35. The IDEA requires a school district to implement an eligible student's IEP in the student's least restrictive environment (LRE). Inclusion in the general education classroom is presumed to be a student's LRE.

36. WAC 392-172A-02050 provides that a school district shall ensure that the provision of services to each student eligible for special education shall be provided

[T]o the maximum extent appropriate in the general education environment with students who are nondisabled...and [s]pecial classes, separate schooling or other removal of students eligible for special education from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

37. In *Sacramento, supra*, 14 F. 3d 1398, the court applied a four-part test to determine the student's LRE

(1) the educational benefits available to the student in a regular classroom, supplemented with appropriate aids and services, as compared with the educational benefits of a special education classroom;

- (2) the non-academic benefits of interaction with children who were not disabled;
- (3) the effect of the student's presence on the teacher and other children in the classroom; and,
- (4) the cost of mainstreaming the student in a regular classroom.

At the time of the court's decision, the student was 11 years old, moderately mentally retarded, with an I.Q. of 44. The student was motivated to learn, learned by imitation, and was not disruptive. The court rejected the district's proposal for a special education classroom for academic subjects and regular class for non-academic subjects such as art, music, lunch and recess (which would have required six classroom changes each day). The court found that the LRE for the student was full-time placement in her regular education classroom with support services, including the assistance of a consultant and part-time aide.

38. Later the same year, in *Clyde K. ex rel. Ryan K. v. Puyallup School District*, 35 F.3d 1396 (9th Cir. 1994), the court applied the same four-part test and found that the least restrictive environment for the student in *Clyde K.* was a self-contained special education classroom. Unlike the student in *Sacramento*, the student in *Clyde K.* was diagnosed with Tourette Syndrome and Attention Deficit Hyperactivity Disorder (ADHD), was frequently disruptive to the class, engaged in name-calling, sexually explicit profanity, as well as kicking and hitting classroom furniture. At the time of the hearing he had been involved in two violent confrontations and removed from the regular education classroom.

39. The court in *Clyde K.* noted that the student's behavior largely prevented him from learning, and that an aide would not have made a meaningful difference. In addition, the student did not model his behavior on that of his non-disabled peers, he was socially isolated and suffered a great deal of stress from teasing by the other students. The student's presence in the regular education classroom had an overwhelmingly negative effect on teachers and other students, interfering with their ability to learn. The court further stated: "Disruptive behavior that significantly impairs the education of other students strongly suggests a mainstream placement is no longer appropriate. See. 34 CFR § 300.552, Comment."

40. The District correctly notes in closing argument that the Parent did not challenge most portions of the April 2016 proposed IEP, including the annual goals and objectives, or the accommodations and modifications. The issue concerns the placement change from 88% general education in a comprehensive high school to a highly restricted day school environment in 100% special education classes. Dr. Albertson credibly found the Student is not the typical student for whom this type of LRE analysis is considered. The District would not be considering this analysis were it not for the Parent's revelations during the January 15, 2016, meeting. The assistant principal credibly described the "wow" moment and that the revelations got their attention. The undersigned had the opportunity to observe the Parent at hearing, her manner and style of expression, her tears, and her communication style of linking several thoughts and events together in stream of information. The undersigned does not doubt that the District representatives at the January 15, 2016, were understandably and reasonably keenly concerned by a Parent's fears of Student violence. The Student was new to the District, and it was initially reasonable for the District staff to defer to the observations of the Parent. However, the evidence and assessments after January 15, 2016, did not support the District's continued level of concern. The District conclusion about the Student's suicidal ideation was not

supported by the evidence. Dr. Albertson differed considerably in his opinion, conclusions and recommendations from those of the District. The act of cutting and pasting portions of his report into the amended reevaluation summary is not equivalent to actually considering the report's contents. The District members could not overcome their initial reactions to the January 15, 2016, meeting sufficiently to give meaningful consideration to LRE options.

41. More probably than not, the hint of a Columbine or Marysville school shooting had the effect of ending open discussion about school safety concerns in the event the Student stopped medication or stopped outpatient therapy or CSS services. The District's concern about these potential changes in the Student's situation are valid, and reason to address in an IEP, but at present are not sufficient to warrant a restrictive, 100% special education program in a day school. The Student's need for school-based counseling. The District has a good relationship with Dr. Albertson and could have easily inquired of him informally, or invited him to the meeting, to explain the school-based counseling recommendation. It is not probable that his suggestion for school-based counseling would be viewed as the District viewed this case, were it not for the potential of a mass school shooting.

42. For the reasons stated above, it is concluded the Parent has amply proven that the day school setting entirely in a restricted special education setting proposed by the District is not the Student's LRE. The Parent proved the District violated the IDEA because its proposed April 2016 IEP does not provide the Student FAPE in the least restrictive environment and the placement in a day school is therefore not appropriate.

Failing to develop an IEP consistent with the March 29, 2016 evaluation

43. The Parent asserts the District failed to develop an IEP consistent with the evaluation when it proposed significantly increased time in specially designed instruction and greatly limited the Student's access to general education curriculum. The evidence established that the proposed IEP entirely eliminated the Student's access to general education. The District concedes that the percentage calculation of just under 20% general education was a mistake. The District concedes its proposed IEP is for 100% special education setting with no access to a general education curriculum or non-disabled peers. However, given the analysis above which concluded the IEP failed to provide the Student FAPE in the least restrictive environment, further analysis of the failure to provide FAPE is unnecessary.

Proposing to offer compensatory education which were not detailed and not sufficient to remedy failure to provide FAPE

44. The issue of lack of detail in the PWN offering compensatory education was addressed above. The Parent has not proven that the lack of detail in the offer constituted a denial of FAPE. If the District had provided detailed hours which were proven to be insufficient, this would be a different analysis. However, the District's decision to make the offer appears to have been made in good faith once it realized the Student had not received any tutoring services in second semester. The District's expectation that the specifics would be discussed and agreement reached with the Parent is no evidence of an IDEA violation.

45. For the reasons stated above, the preponderance of factors are in the Parent's favor on this issue, particularly the consequences of deciding not to invite Dr. Albertson to the rescheduled evaluation and IEP meeting March 29 and the second meeting April 12, 2016. The

Parent has proven the District failed to allow her meaningful participation in the discussion of less restrictive placement ideas.

Remedies

46. The Parent requests an order the Students' IEP team at Wilson convene to develop an IEP that is consistent with his LRE. Specifically, the Parent requests the Student be served in a District school with more time in general education than identified in the District's April 2016 proposed IEP. The above conclusions support this remedy.

47. The Parent requests additional remedies in the form of requiring training for District administrators about youth mental health. The evidence supports a conclusion that the training received related to using risk screeners was insufficient. The conclusion that additional training is needed is not intended as negative comment about the professionalism of the District administrators. District administrators were reasonably mindful of educating in an era of increased school violence where mass shootings which were once unthinkable are now well known by simple reference to a school or town. It is appropriate to order the District to require training for District administrators about youth mental health, and the District shall arrange for administrators to participate in training by January 31, 2017.

48. The Parent requests compensatory education. Compensatory education is a remedy designed "to provide the educational benefits that likely would have accrued from the special education services the school district should have provided in the first place." *Reid v. District of Columbia*, 401 F.3d 516, 524, 43 IDELR 32 (D.C. Cir. 2005). It is a remedy intended to place a student in the position the student would have occupied if a school district had honored its duty to provide FAPE, and it must be based on a determination of each student's individual needs. It is an equitable remedy, meaning the tribunal must consider the equities existing on both sides of the case. It is concluded the Parent's request for compensatory education are an appropriate remedy.

49. For Parent's request for compensatory education for the period from January 19, 2016 through May 23, 2016, is appropriate. The request for one-to-one tutoring, while restrictive, is also appropriate. The evidence supports a conclusion that a compensatory award in the form of one-to-one tutoring is appropriate for: 300 minutes to make up for three special education classes for seventeen school weeks in which the District failed to provide the Student FAPE, a total of 85 hours; an additional 60 hours to make up for the two hours per week of individual tutoring for each week he was unable to meaningfully access the online TVL classes from which he was dropped (Algebra and Biology) and could not successfully navigate (World History). The compensatory education is warranted also due to placement in the TVL Algebra 1B second semester class. The consensus of teachers and Parent and Student by early January 2016 was the Student needed to move to a slower-paced special education LRA classroom for second semester math.

50. The Parent requested 22 hours of one-to-one tutoring to make up the denial of FAPE two classes for 11 school weeks excluding winter break between October 6, 2015, and January 15, 2016. However, the evidence regarding the failure to measure Student progress in accord with his IEP warrants an award starting September 8, 2015 for all five classes. Thus, the award shall be calculated based on five hours per week for 15 weeks, which excludes the winter break,

and cumulative non-school days and the Thanksgiving holiday. Exhibit P27. The compensatory award for first semester is then 75 hours.

51. The total calculation of compensatory education is 220 hours (85 + 60 + 75). The compensatory education shall be delivered in the form of one-to-one tutor who is familiar with the Student's IEP and evaluation summary. The District is responsible to select and identify the tutor or tutors, but shall give consideration to the Student's tutor preferences.

52. The ALJ lacks authority to award attorneys' fees and costs and Parent's request is denied.

53. All arguments made by the parties have been considered. Arguments that are not specifically addressed herein have been duly considered, but are found not be persuasive or not to substantially affect a party's rights.

ORDER

1. The District violated the IDEA and denied the Student FAPE by failing to:
 - a. Implement the adaptations and behavior goals in the April 2015 IEP during second semester of the 2015-2016 school year;
 - b. Measure goals and objectives as planned by the IEP;
 - c. Provide the Parent with prior written notice of the decision to change the placement to online TVL for second semester of the 2015-2016 school year;
 - d. Provide the Parent an opportunity to meaningfully participate in the decision to change the Student's placement to the online TLV program;
 - e. Allow the Parent to meaningful participate in the discussion of less restrictive placement ideas;
 - f. Conduct a reevaluation before proposing to change the Student's placement to online TVL;
 - g. Issue appropriate notice of change of placement in to TVL; and
 - h. Propose an IEP that provides the Student FAPE in the least restrictive environment and in a placement in a day school that was therefore not appropriate.
2. The District shall maintain the Student in the Student's current educational placement in accordance with the above Conclusion of Law until such time as the District convenes a reevaluation meeting to which the District shall invite Dr. Albertson, and further until such time thereafter as the District convenes the Student's IEP team to consider the reevaluation and develop an IEP that is consistent with his LRE as set forth in the Conclusions of Law above.
3. The Parent is entitled to an award of 220 hours of one-to-one tutoring for the Student to be utilized as described in the Conclusions of Law above.

4. The District shall provide training for District staff as set forth in the Conclusions of Law above.
5. The Parent's remaining remedies are denied.

Signed in Yakima, Washington on August 17, 2016.



Johnette Sullivan
Administrative Law Judge
Office of Administrative Hearings

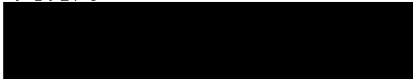
Right To Bring A Civil Action Under The IDEA

Pursuant to 20 U.S.C. 1415(i)(2), any party aggrieved by this final decision may appeal by filing a civil action in a state superior court or federal district court of the United States. The civil action must be brought within ninety days after the ALJ has mailed the final decision to the parties. The civil action must be filed and served upon all parties of record in the manner prescribed by the applicable local state or federal rules of civil procedure. A copy of the civil action must be provided to OSPI, Administrative Resource Services.

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this order to the within-named interested parties at their respective addresses postage prepaid on the date stated herein.

Parent



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cc: Administrative Resource Services, OSPI
Matthew D. Wacker, Senior ALJ, OAH/OSPI Caseload Coordinator