



STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
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AUG 17 2017

Superintendent of Public Instruction
Administrative Resource Services

August 16, 2017

Guardians
[REDACTED]

Melissa Madsen, Executive Director of Special Services
Issaquah School District
565 NW Holly Street
Issaquah, WA 98027

Adult Student
[REDACTED]

Carlos Chavez, Attorney at Law
Pacifica Law Group LLP
1191 Second Avenue, Suite 2000
Seattle, WA 98101

In re: Issaquah School District
OSPI Cause No. 2017-SE-0020
OAH Docket No. 02-2017-OSPI-00250

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,

Anne Senter
Administrative Law Judge

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

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

MAILED
AUG 16 2017
OAH - SEATTLE

IN THE MATTER OF:

OSPI CAUSE NO. 2017-SE-0020

ISSAQUAH SCHOOL DISTRICT

OAH DOCKET NO. 02-2017-OSPI-00250

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

A due process hearing was held before Administrative Law Judge (ALJ) Anne Senter in Issaquah, Washington, on May 9 and 10, 2017. The Father/Guardian of the Adult Student whose education is at issue¹ appeared and represented the Guardians, who are the Student's Parents. The Issaquah School District (the District) was represented by Carlos Chavez, attorney at law. Also present was Melissa Madsen, District executive director of special services.

STATEMENT OF THE CASE

The Guardians filed a Due Process Hearing Request (the Complaint) with the Office of Superintendent of Public Instruction (OSPI) on February 17, 2017. The Complaint was assigned Cause No. 2017-SE-0020 and was forwarded to the Office of Administrative Hearings (OAH) for the assignment of an ALJ. A Scheduling Notice was entered February 23, 2017, which assigned the matter to ALJ Anne Senter.

Prehearing conferences were held on March 16, April 13, and May 5, 2017. Prehearing orders were entered March 17 and April 14, 2017.

The parties timely submitted post-hearing briefs on June 15, 2017. After that, on June 30, 2017, the Department of Education issued amended federal regulations regarding state testing and graduation. On June 30, 2017, the Guardians requested time to review the regulations and then notify OAH if they wished to submit additional briefing. On July 5, 2017, the Guardians notified OAH that they wished to supplement their briefing. The parties timely submitted supplemental briefing on July 17, 2017.

Due Date for Written Decision

As set forth in the Prehearing Order entered March 17, 2017, the due date for a written decision in this case was continued to 30 days after the close of the record at the District's request. As the record closed with the receipt of the parties' supplemental post-hearing briefs on July 17, 2017, the due date for a written decision is **August 16, 2017**.

¹In the interests of preserving the family's privacy, this decision does not name the parents or student. Instead, they are each identified as "Guardian(s)," "Parent(s)," "Mother," "Father," "Adult Student," and/or "Student."

Evidence Relied Upon

Exhibits Admitted:

District's Exhibits: Exhibits D1 – D19; and

Parents' Exhibits: Exhibits P1 – P11.

Witnesses Heard (in order of appearance):

Susan Wolever, former District director of secondary special education services;
LaShae Lee, District director of special services for secondary schools;
Adam Desautels, District assistant principal;
Karen Maquigad, District dean of students;
Lael Hughes, District special education teacher;
Holly Hovey, District special education teacher;
Melissa Madsen, District executive director of special services; and
The Adult Student's Father/Guardian.

ISSUES

As set forth in the Prehearing Order entered March 17, 2017, the issues for the due process hearing are:

- a. Whether the District violated the Individuals with Disabilities Education Act (IDEA) and denied the Adult Student a free appropriate public education (FAPE) by failing to develop an appropriate individualized education program (IEP) in January 2017 by exiting the Adult Student from special education and his placement at Renton Technical College in June 2017 when
 - i. Exiting the Adult Student that early was not the recommendation of the majority of the IEP team members;
 - ii. The Adult Student will not have met graduation requirements, including that he will not have passed a math assessment at the appropriate level;
 - iii. Exiting the Adult Student is inconsistent with an option offered to the Guardians by the IEP team that the Guardians selected;
- b. And, whether the Guardians are entitled to their requested remedies:
 - i. The Adult Student to continue to receive special education services in his placement at Renton Technical College until June 2018 or, alternately, December 15, 2017;
 - ii. And/or other equitable remedies, as appropriate.

FINDINGS OF FACT

Background

1. The Student was 18 years old and in his fifth year of high school at the time of the hearing.
2. The Student was first determined to be eligible for special education and related services in preschool. Exhibit D2, p. 5.
3. The Student's Guardians unilaterally placed him at Eastside Catholic School, a private high school, during the 2012-2013 school year, which would have been his eighth-grade year. Exhibits D1; D3, p. 8; D17. He received a number of high school credits while he was there. *Id.*
4. The Student transferred to Issaquah High School in the District for the 2013-2014 school year. This would have been his ninth-grade year, but was the second year in which he took high school courses and received high school credits. Exhibit D17.
5. The 2014-2015 school year would have been the Student's tenth-grade year, but was his third year taking high school classes. Exhibit D3, p. 8. He was taking classes that "put him equivalent with a sophomore in the progression of his core classes" but his accumulated credit accrual was equivalent to junior-level standing. *Id.* However, the Student's Guardians had communicated to the District their preference for him to attend a fifth year of high school due to his maturity level and needing more time for transition services. *Id.* For that reason, the IEP team recommended, in an IEP dated April 1, 2015 (2015 IEP), that that his core requirements be spread out over the next two years with a focus on transition activities his fifth year. *Id.*
6. The 2015 IEP stated that the Student's projected graduation date was June 17, 2017, which would be after the completion of his fifth year of high school, including his year at Eastside Catholic. *Id.* at 5, 19. The IEP noted, with respect to secondary transition, that the Student would like to do running start at Renton Technical College for his senior year in one of the technology programs offered. *Id.* at 19.
7. The Student's IEP team held a "transition meeting" on November 15, 2015, during the Student's third year of high school. Exhibit D5, p. 3. Prior to the meeting, the District had prepared a document entitled "Options for [Student's] Transition Plan." Exhibit D4, p. 1. The document contained three options, labeled Options A, B, and C. *Id.*
8. Option A was entitled "Attend Renton Tech Full Time 2016-2017." *Id.* It stated "Fall 2016-2017 Attend vocation program" and specified "Renton Technical 4 quarters ending December 2017." *Id.* The record is not clear why Option A stated "4 quarters ending December 2017" and no finding is made as to the language's purpose because it is not necessary to the resolution of this case. See Exhibit D4, p. 1.
9. Option B was entitled "Attend Seattle Vocational Institute Full Time 2016-2017." *Id.* It stated "Fall 2016-2017 Attend vocation program" and specified "Seattle Vocational 3 quarters ending June 2017." *Id.*

10. Option C was entitled "High School Senior 2016-2017." Exhibit D4, p. 1. It specified that the Student would retake failed courses and electives to fulfill a five- or six-period schedule or potentially intern in a technology environment for a partial day. *Id.*

11. Below the three options, it stated "[i]ndividualized transition plan for 2017-2018 to be formulated by IEP team depending upon [the Student's] success." *Id.*

12. The three options were discussed at the November 2015 transition meeting. Exhibit D5, p. 4. The District's meeting notes state the following:

The team seemed to reach a consensus that Renton Tech would be the best place to start. Transportation would be provided, and the district would pay for [the Student] to take 15 credits (some programs require additional credits and if one of those was selected, the parents would be responsible for the additional credit tuition beyond 15).

Id. No final decision was made though as the team's notes reflected action items about investigating programs.

13. The District's meeting notes state the following about state testing:

Ideally [the Student] will pass the state testing requirement for math this year. The school team is recommending the DAPE this year. If [the Student] passes, he will have met all state testing requirements. If he does not, the IEP team will formulate a plan for him to meet the testing requirements next year (DAPE again or Locally Determined Assessment).

Id. The DAPE and Locally Determined Assessments are alternate assessments to standard state testing requirements for graduation.

14. There is no evidence that the Student's IEP was amended or that the District sent the Guardians a prior written notice (PWN) after this meeting, but the District did provide the Guardians with the meeting notes by email. Exhibit D5.

15. The Student's annual IEP meeting was held on January 27, 2016, and continued on March 9, 2016. Exhibit D8, pp. 30. The resulting 2016 IEP showed the Student's projected graduation/exit date to be June 15, 2017. *Id.* at 4, 17. The secondary transition section stated that the Student was evaluating technical programs for the 2016-2017 school year and that he would attend field trips to Renton Technical College and Seattle Vocational Institute. *Id.* It stated that he had expressed an interest in attending Seattle Vocational Institute's Computer Tech Program although he had not yet made his decision. *Id.* at 18. It also stated that "[f]or the 2016-2017 school year, [the Student] plans to enroll at a technical college as part of the Running Start program. He will continue working toward meeting standard in math and reading and writing." *Id.* There is no mention as to the length of the Renton Technical Program if he were to select it. *Id.*

16. With respect to state testing, the 2016 IEP reflected that the Student had taken the end of course exam (EOC) for algebra without meeting the standard. *Id.* at 7. The secondary transition section of the IEP stated that the Student would complete his culminating project and

state testing by the end of the 2016-2017 school year or earlier. *Id.* at 17. It stated that he needed to complete the Math Standard Balanced Assessment Consortium (SBAC) test and his “high school and beyond plan.” *Id.* It stated that his options to meet state testing standards included scoring at “basic level 2” on the SBAC, which means passing at a lower level than typically required; taking the “off-grade level” SBAC, which means taking the SBAC designed to assess students in lower grades; or taking “locally determined assessments” (LDAs), which are tests from a list of approved published achievement tests in specific content areas. *Id.* Under accommodations, the 2016 IEP stated “Testing Accommodation: EOC/OFF LEVEL SBAC/LDA/SBAC – Passes at a basic level of proficiency.” *Id.* at 23.

17. The 2016 IEP also contained a section entitled “State or Districtwide Assessment of Student Achievement.” *Id.* at 24. The “yes” boxes were checked for participation in both the SBAC and off-level SBAC with respect to math. *Id.* For each, the text in the box for accommodations and modifications included the language “EOC/OFFLEVEL SBAC/LDA/SBAC – Passes at a basic level of proficiency.” *Id.* Yet the box for locally determined assessment was checked “no” for math. *Id.* Holly Hovey, the Student’s case manager, believed the listing of multiple assessments in the IEP meant the Student could take any of them.² Hovey, Tr. 298.

18. Although the 2016 IEP set forth a number of alternatives for the Student’s state testing, it did not identify that the IEP team had determined which one was appropriate or why. Exhibit D8. Nor did it state whether the Student should take the off-level SBAC at the elementary or middle school level. *Id.* However, the PWN stated the following with respect to math testing:

While students with IEPs may pass with different criteria to meet standard . . . Parents are opting to hold [the Student] to meeting standard . . . [for] Math at Basic Level 2 for the time being.

* * *

[The Student] may take the Off-Level SBAC for Math when it is offered each year. He may also pursue meeting state standard by taking the Locally Determined Assessment (LDA). Parents to let the IHS staff if (sic) they want [the Student] to take these assessments.

Id.

19. The Student took the high school SBAC in math in the spring of 2016 and did not meet level 2, which is required to pass at the “basic” level. Exhibit D10, p. 2.

20. He also took the off-grade level SBAC in math at the elementary grade level in the spring and passed at level 3. *Id.* at 4. There is no evidence that the Guardians requested the Student take this test or that the IEP team met and made that decision. Nor is there any evidence how it

² A District testing coordinator identifies which students have not yet met their testing requirements and gives those students the opportunity to take an off-grade test. Hovey, Tr. 298. Karen Maguigad, the Issaquah High School dean of students, who facilitates state testing for all students, believes it is the District’s protocol to give the off-grade level test at the elementary level in hopes the student will pass. Maguigad, Tr. 185.

was determined that he would take the off-grade level SBAC in math at the elementary level rather than at the middle school level.

21. On August 22, 2016, the District issued a PWN proposing to continue the Student's IEP. It stated that the Student would take the SBAC math assessment at the high school level in November 2016. Exhibit D6, p. 1. The PWN stated the following reason for proposing to take the action:

Staff asked [the Student] if he would like to test on the SBAC Math Assessment at either the middle school or high school level. At this time, [the Student] has fulfilled the SBAC Math Assessment at the elementary level which allows him to fulfill state test graduation requirements.

[The Student's] family has requested that he continue math testing in order to meet middle school SBAC or earn Basic Level on the High School SBAC Math.

Id. There is no indication that there was an IEP team meeting associated with this PWN or that the team determined whether the off-grade level SBAC at the elementary level was the appropriate math assessment for him or why.

22. The Student entered an autobody repair and refinishing program at Renton Technical College as a Running Start student from Issaquah High School in the fall of 2016. Exhibits D12.

23. The Student's annual IEP meeting was scheduled for January 2017. Prior to the meeting, the District sent the Guardians two versions of draft IEPs, each of which stated on the cover page and on the transition page that the Student's projected graduation/exit date was December 15, 2017. Exhibits P3, P4.

24. The special education administrator who usually attends the Student's IEP meetings was not available to attend so Melissa Madsen, the District's executive director of special services, attended instead. Lee, Tr. 75. Prior to the IEP meeting, the District team, including Ms. Madsen, held a pre-planning meeting. Madsen, Tr. 325. At that meeting, members of the school team raised the question of whether the Student would be ready to graduate at the end of the 2016-2017 school year, rather than in December 2017. *Id.* No final decision was made at the pre-planning meeting. *Id.* at 328.

25. At the January 2017 IEP meeting, the District members of the IEP team determined, after hearing about the Student's success in the Renton program and considering that he had met his graduation requirements, that his projected graduation/exit date would be June 12, 2017. Exhibit D16; Hovey, Tr. 294. Because the IEP team members signed the cover page from one of the draft IEPs at the meeting and the District members of the team attached the final IEP to that cover page, it shows two different proposed graduation dates – December 2017 on the cover page and June 2017 on the transition plan page. *Id.* The PWN states that the Student will graduate with his peers in June 2017 because he has met all graduation requirements. *Id.* Although Ms. Madsen did much of the speaking at the IEP meeting, all the District members of the team who testified at the hearing agreed that the Student should graduate at the end of the school year. The Guardians disagreed. There is no evidence that the team members addressed at this meeting whether and why the off-level SBAC at the elementary level was the appropriate math assessment to meet the Student's graduation requirement. Exhibit D16, p. 11.

26. The Student has since taken the off-grade level SBAC at the middle school grade level and did not pass. Hovey, Tr. 290. He has also completed his "high school and beyond" project, including the required interview, which was done informally. Desautels, Tr. 115.

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

1. The Office of Administrative Hearings (OAH) has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 United States Code (USC) §1400 *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. See *Schaffer v. Weast*, 546 U.S. 49 (2005). As the Guardians are the party seeking relief in this case, they have the burden of proof.

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, has 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. The *Rowley* court articulated the following standard for determining the appropriateness of special education services:

[A] "free appropriate public education" consists of educational instruction specially 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 on 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 200-01.

6. The Supreme Court recently clarified the substantive portion of the *Rowley* test quoted above:

To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. . . [H]is educational program must be appropriately ambitious in light of his circumstances . . .

Endrew F. v. Douglas County Sch. Dist. RE-1, ___ U.S. ___, 137 S. Ct. 988, 999-1000 (2017). The Ninth Circuit has explained the *Endrew F.* standard as follows:

In other words, the school must implement an IEP that is reasonably calculated to remediate and, if appropriate, accommodate the child's disabilities so that the child can "make progress in the general education curriculum," taking into account the progress of his non-disabled peers, and the child's potential.

M.C. v. Antelope Valley Union High Sch. Dist., ___ F.3d ___, 2017 U.S. App. LEXIS 9359, at 22 (9th Cir. 2017)(citation omitted).

Exit from Special Education Services

7. One of the bases for exiting a student from special education is graduation with a "regular high school diploma":

The student has met high school graduation requirements established by the school district pursuant to rules of the state board of education, and the student has graduated from high school with a regular high school diploma. A regular high school diploma does not include a certificate of high school completion, or a general educational development credential. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172A-05010;

WAC 392-172A-02000(2)(b).

8. Thus, the Student may be properly exited from special education if he meets the graduation requirements and graduated with a "regular high school diploma." *Id.*

9. The Guardians argue that the Student should not have been exited from special education or from his program at Renton Technical Institute as of June 2017 for three reasons: 1) because exiting him that early was not the recommendation of the majority of the IEP team members; 2) because he will not have met graduation requirements in that he will not have passed a math assessment at the appropriate level and because he had not completed his "high school and beyond" plan;³ and 3) because exiting the Student is inconsistent with an option offered to the Guardians by the IEP team, which the Guardians selected.

Decision of IEP Team

10. As to the Guardians' first issue, it is not supported by the facts. Although the Guardians appear to believe that Ms. Madsen unilaterally made the decision to graduate and exit the Student when she became involved, the question of whether the Student should be graduated was raised by staff at the Student's school prior to the IEP meeting and District members of the IEP team agreed with the team's decision made at the meeting. Thus the Guardians have not demonstrated that the Student should not graduate or be exited from special education on this ground.

"Offer" by IEP team

11. The Guardians argue that the Student should not graduate or be exited from special education services because the District provided them the option for the Student to attend Renton Technical College through December 2017 and they selected that option.

12. It is not clear why the Renton Technical College option presented to the Guardians in November 2015 stated four quarters through December 2017 nor is it clear when the Student and the Guardians decided that he would attend Renton Technical College since the IEP developed in January 2016 stated that he was still evaluating technical program and would visit both Renton Technical College and Seattle Vocational Institute. The 2016 IEP did not commit to providing a specific amount or length of technical school and it identified the Student's projected graduation date as June 2017. Even if the IEP had mentioned possible services beyond the year in which the IEP was in effect or contained a later projected graduation date, IEPs are living documents that can change with a student's needs. They must be reviewed at least annually and reflect the student's present level of performance and address the student's current anticipated needs. See WAC 392-172A-03090; 392-172A-03110. A discussion at an IEP meeting, especially when not incorporated into an IEP document or prior written notice, does not preclude an IEP team from later making different decisions about a student during another time period given his needs at that time. For this reason, the Guardians have not proven that the District may not graduate the Student, exit him from special education, or discontinue his attendance at Renton Technical College based on an offer to or agreement with the Guardians.

³ The statement of the issues reads that the Student "will not have met graduation requirements, *including* that he will not have passed a math assessment at the appropriate level." (emphasis added). The Father was asked to identify any other graduation requirement he believed was at issue at the hearing. He identified only the "high school and beyond" plan. Father, Tr. 286-87. Accordingly, any other reasons identified in the Guardians' brief or mentioned in testimony are not considered.

Graduation Requirements

13. A certificate of individual achievement is available to special education students who are not appropriately assessed by the Washington statewide high school assessment system. RCW 28A.155.045. The certificate may be earned using multiple alternate ways to demonstrate skills and abilities "commensurate with their [IEPs]." *Id.* The determination of whether the high school assessment system is appropriate for a student shall be made by the student's IEP team. *Id.* Under Washington law and OSPI guidance, a certificate of individual achievement earned in this manner is a "regular high school diploma" for purposes of determining whether a student may be exited from special education. *Tacoma School Dist., 2014-SE-0073, Order Granting in Part and Denying In Part Adult Student's Motion for Partial Summary Judgment*⁴ (SEA WA 2015)(citing Special Education and State Testing, Publication No. 14-0058 (OSPI, 2014)(student earning a certificate of individual achievement gets a "regular diploma")⁵ and *Camas School Dist., 106 LRP 2398 (SEA WA 2003)*(concluding that a diploma based on modified requirements was a regular diploma that terminated the student's entitlement to special education services)). Thus, a special education student may graduate and be exited from special education although he participates in alternative assessments.

14. OSPI is responsible to develop guidelines for determining which students should not be required to participate in the in the high school assessment system and which types of assessments are appropriate. RCW 28A.155.045. OSPI has provided guidance on this subject in an information sheet entitled IEP Team Guidelines for Selecting the Appropriate Assessment to Earn a Certificate of Individual Achievement (CIA).⁶ This guidance states that the determination as to how a student with an IEP is assessed to meet the graduation requirements will be made by the student's IEP team and provides considerations a team shall consider in "making the determination as to which assessment option is the most appropriate." Additional guidance provided by OSPI, the document entitled Special Education and State Testing, Publication No. 14-0058, cited above, provides that the IEP team "decides what state tests to use based on the student's needs." It further states that these decisions will be documented in the student's IEP, which must also state "why the particular assessment that is selected is appropriate."

15. Here, the Student's IEP stated that he could be assessed using a range of different tests rather than determining which of those tests was appropriate for the Student and the basis for that determination. Despite those statements, the accompanying PWN stated that the Guardians wanted the Student to be assessed at basic level two for math and that he "may" also take an off-level SBAC or LDA if the Guardians "want" him assessed in this manner. There is no evidence that the IEP team determined a different course for the Student at the January 2017 IEP meeting or at any other time. Accordingly, because the IEP team has not determined that the off-grade level SBAC at the elementary school level was the appropriate assessment for the Student, that assessment cannot be the basis for receiving a certificate of individual

⁴ A copy of this document can be obtained from OSPI's public records officer.

⁵ This publication is available on OSPI's website at <http://www.k12.wa.us/Resources/pubdocs/SpecialEdTesting.pdf>.

⁶ This publication is available on OSPI's website at <http://k12.wa.us/assessment/GraduationAlternatives/pubdocs/IEPTeamGuidanceforSelectingCIAOptions.pdf>.


achievement.⁷ For that reason, the District cannot yet graduate the Student and, therefore, cannot exit him from special education based on graduation.

16. Because the Guardians did not demonstrate that the Student had not completed his "high school and beyond" plan, that is not an alternate basis for determining that he should not graduate and should not be exited from special education.

ORDER

1. The District violated the IDEA and denied the Adult Student a FAPE by proposing to graduate him and exit him from special education based on an alternate state testing assessment that had not been determined by his IEP team to be the appropriate assessment for him.
2. The Adult Student remains eligible for special education and related services as he has not yet graduated.
3. The Guardians' remaining requested remedies are denied.

Signed at Seattle, Washington on August 16, 2017.



Anne Senter
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.

⁷ Because the Department of Education's revisions to 34 CFR Part 300 were not effective until June 30, 2017, they do not impact the District's decision to graduate the Student, which was made before that date.

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.




Guardians



Melissa Madsen, Executive Director of Special Services
Issaquah School District
565 NW Holly Street
Issaquah, WA 98027

Adult Student



Carlos Chavez, Attorney at Law
Pacifica Law Group LLP
1191 Second Avenue, Suite 2000
Seattle, WA 98101

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