

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

IN THE MATTER OF:

CLOVER PARK SCHOOL DISTRICT

SPECIAL EDUCATION
CAUSE NO. 2002-SE-0078

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

STATEMENT OF THE CASE

On June 10, 2002, [redacted] and [redacted] ("Parents"),¹ the parents of the student [redacted], filed a request for hearing with the Office of Superintendent of Public Instruction ("OSPI"). On June 11, 2002, the Office of Administrative Hearings ("OAH") mailed notices of a prehearing conference and a hearing for June 18, 2002 and July 1, 2002, respectively. The prehearing conference was held as scheduled and a Prehearing Order issued the same day. The hearing date was continued to July 15, 2002 so that the parties could have time to conclude the IEP process for the 2002-2003 school year. The deadline for issuance of a written decision was continued from July 25, 2002 to August 9, 2002. On July 1, 2002, a readiness prehearing conference was held. The parties reported resolution of most issues related to the 2002-2003 school year. On July 1, 2002, a Second Prehearing Order was issued. It finalized the issues for hearing. The parties agreed to oral closing argument on the last day of hearing.

A hearing in the above-entitled matter was held before Administrative Law Judge Mary L. Radcliffe in Lakewood, Washington, on July 15, 2002. The Parents/appellants appeared on their own behalf. The Clover Park School District ("District") was represented by William Coats, attorney at law.

Evidence Relied Upon:

Exhibits Admitted:

District's exhibits: SD1 through and including SD68.

Parents' exhibits: P201 through and including P208

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

Legal file exhibits: C1 through and including C4.

Witnesses Heard: Beverly [redacted], principal, [redacted] Elementary School, Gigi DeVault, previous Co-Director of Special Education, Mother, and Father.

ISSUES

1. 2001-2002 School Year:

Whether the Student's 2001-2002 IEP Behavior Intervention Plan was appropriate?

Whether the District implemented the Student's 2001-2002 IEP with appropriately trained staff services?

Whether the District complied with the State regulations pertaining to disciplinary exclusions (WAC 392-172-370 through -385), including conducting a Functional Behavior Assessment?

2. 2002-2003 School Year

Whether the Student's Behavior Intervention Plan is appropriate? Should it contain positive feedback, rewards, and in-school suspensions, and prohibit out-of-school disciplinary exclusions?

3. Request for Relief

Whether the appellant/Parents are entitled to their requested remedies, or other equitable remedies, such as compensatory education, as appropriate.

Requested remedies:

Regular communication between the Parents and District staff to avoid an escalation of Student problems.

A daily log or other regular communication between the Student's paraeducator and the Parents;

Prohibition of the use of out-of-school disciplinary exclusions;

A Behavior Intervention Plan that includes positive responses and rewards and the use of in-school suspensions, but prohibits use of out-of-school disciplinary exclusions.

See July 1, 2002 Second Prehearing Order.

Findings of Fact, Conclusions of Law and Order

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The Administrative Law Judge, having sworn the witnesses, heard testimony, and considered the admitted exhibits and arguments of the parties, hereby enters the following:

FINDINGS OF FACT

1. The Student lives with his Mother within the boundaries of the District. The Student's Mother and Father are very active in the educational planning for the Student. By all reports the family and District have a good working relationship which they all want to maintain.
2. The Student began attending Elementary School during his preschool years. Thereafter, several other placements in the District were tried but were unsuccessful. The Student returned to Elementary early in his first grade year. The Student's third grade year, 2001-2002, is at issue.
3. The District's most recent reevaluation of the Student is dated July 2, 2002 and is not at issue. The Student is eligible for special education under the category of Autism. Previously, the Student was eligible under the Multiple Handicap category due to his autism and an identified emotional behavior disorder. He has academic, social, and fine motor delays.
4. The Student's disability manifests itself in numerous ways. Most difficult to manage is his verbal and physical aggression. Generally, accumulated stress triggers the aggression. The stress originates from a variety of sources but is significantly connected to the Student's difficulty in understanding social pragmatics and processing information. Often the Student's aggressive behavior can be predicted but other times it cannot be.
5. In order to address the Student's behavior, the IEP team, including the Parents, developed a Functional Behavior Assessment, Behavior Intervention Plan ("BIP") and an Aversive Therapy Plan. The BIP is intended to benefit the Student and is not a form of punitive discipline. Even on occasions in which restraint must be used, the Student generally calms quickly and does not have an additional negative reaction to the restraint.
6. In the first and second grade, the Student was placed in the functional academics classroom. His progress was remarkable by all accounts. By the end of second grade, the Student was spending time every day in the general education classroom and doing well. In order to stay with his age/grade peers, the Student needed to fully transition to the general education classroom in the third grade, which he did.
7. The Student was placed in the general education third grade classroom with a full time 1:1 aide. The aide had worked with the Student in the previous school years and the

two were very close. The Student was served under an IEP that contained a Functional Behavior Assessment ("FBA"), BIP, and an Aversive Therapy Plan.

8. After winter break in the 2001-2002 school year, the Student developed increasing stress. The Student's longtime aide accepted another position at the school. There was a honeymoon period with the new aide of perhaps two months and then some escalating behavior. Also at this time, the Student's grandfather, with whom he was very close, became seriously ill and died on May 17, 2002. The Student suffers losses poorly because in addition to grief, he experiences the loss as abandonment and rejection. He became increasingly aggressive at home and at school, especially during unstructured times such as recess and playing with neighborhood friends.

9. According to plan, staff used a communication notebook on an 'as needed' basis to inform the Parents of particular incidents or concerns. As the problems escalated the staff sent more notes home and made telephone calls to the Parents. The Parents kept the District apprised of situations at home, such as the grandfather's illness. They discussed appropriate strategies and worked informally day to day, a strategy necessary to address the variability of the Student's behavior. On March 13, 2002, the Parents attended an IEP meeting to review and revise the BIP. Another meeting was scheduled for March 30, 2002.

10. The District provided the Parents notices of incidents on April 16, 17, and 22, 2002. On April 18, 19, 23, 24, 25, 26, 29, and 30, 2002, the school counselor observed and assisted the Student during recesses. She reviewed with the Student the recess rules before each recess.

11. The District's functional academics teacher, Ms. Morse, is trained in development of behavior intervention strategies. She was part of the IEP team that developed the 2001-2002 IEP, FBA and BIP. She supervised the Student's aide until the third grade, when supervision changed to Ms. _____, the Student's resource room teacher and case manager. Ms. _____ does not appear to be well-trained in behavior strategies and interventions.

12. On April 30, 2002, an IEP meeting was held with the Parents. The team included the Student's Speech Language Pathologist, who is knowledgeable about the Student's disability. The District informed the Parents of its concern that the Student was becoming increasingly aggressive. The IEP team revised the Student's IEP and BIP. IEP revisions included: four sessions per week with the counselor, an increase of Speech/Language services to 30 minutes twice a week (from once a week) to address social pragmatics, a 30 minute computer break daily, and daily scheduled time in the resource room with the special education teacher. These strategies were intended to give the Student predictable

opportunities to decompress. Some of these strategies and services were part of the Student's second grade IEP and BIP.

13. At the April 30, 2002 IEP meeting, the Parents requested that the District utilize in-school suspensions and prohibit out of school suspensions. The IEP team amended the BIP to provide for in-school suspensions but the District refused to prohibit the possibility of an out-of- school suspension.

14. Ms. DeVault, the co-director of special education for the District until May 3, 2002, told the Parents, and testified at the hearing, that she thought that the District could have, for disciplinary reasons, excluded the Student from his classroom or other IEP activity for more than ten days in the school year. Ms. DeVault based this opinion on stories she heard from staff at a Spring 2002 IEP meeting regarding events that occurred over the course of the school year. Ms. DeVault did not provide specifics as to dates and the length of the exclusions. She acknowledges that disciplinary exclusions must be distinguished from therapeutic time outs. She notes that removals included walking with the Student in a short-interactive process and other strategies outside the regular education classroom.

The evidence clearly establishes the District took two formal disciplinary actions against the Student in the 2001-2002 school year: a one day suspension on November 27, 2001 and a three day suspension on May 17, 2002. The District also imposed some informal in-school suspensions. These are not documented. However, none of the exclusions appear to have been more than a portion of a class period and are otherwise difficult to identify because of the challenge of distinguishing them from prescribed therapeutic time outs.

Based on the evidence presented, more probably than not, the Student's disciplinary, out-of-the-classroom exclusions, did not exceed an aggregate of ten class days.

15. On May 17, 2002, the District emergency expelled the Student, based on its emergency expulsion policy, for a playground incident during which he hit another student and hit, bit, and kicked his previous aide. On May 21, 2002, the District held a meeting with the Parents. This was also the day of the Student's paternal grandfather's funeral but both the Mother and Father attended the meeting. The District converted the expulsion to a three day suspension.

16. It was never the District's intention to permanently expel the Student, rather the emergency expulsion was intended to provide time to get the right people together to discuss what to do. The Parents argued against the suspension because they felt the April 30 BIP revisions had not had time to be fully implemented and successful. They also felt

that the Student's side of the story had not been considered and that the discipline was unfair under the circumstances.

17. The Student's behaviors giving rise to the two suspensions were, more probably than not, the result of his disability. The May 17, 2002 incident was, most probably, the consequence of increasing stress over his grandfather's illness and death.

18. Because of his disability, the Student does not benefit from exclusions from school. This is because he likes staying home with his parents and he likes not having to do school work. He also experiences the exclusion as a rejection and takes it very hard, as was the case with the May 2002 suspension. The Student benefits more from in-school suspensions when he must continue to do school work and respond to the people in his environment.

19. In June 2002, the IEP team amended the BIP's section on verbal and physical aggression. It incorporates the IEP revisions made April 30, 2002 and adds the Parents' suggestions: a daily log to track, every hour and a half, targeted behaviors and specific events; Star Chart tracking the Student's successes and rewards; close observation of the Student's agitation with appropriate range of options including time outs; an increase of time in the resource room, on a set schedule, up to two hours per day; time out options or in-school suspensions or other progressive discipline as outlined by the District's policy, if needed. It calls for at least quarterly meetings between staff and family.

20. On or about June 18, 2002, the District received a letter from Penny L. Tanner, Ph.D., A.R.N.P., on behalf of the Parents and Student, recommending classroom modifications. In relevant part, it provides that suspension from school provides the Student secondary gain, and that in-school suspension with extra chores would provide more effective discipline. Dr. Tanner also recommends the Student have scheduled breaks out of the general education classroom and snacks to reduce over-stimulation and accumulated stress. The District has considered these recommendations and included them in the June BIP revisions.

21. On July 2, 2002, the IEP team amended the BIP to include the Parents' request for daily reports to be sent home.

22. The District refuses the Parents' request to have the BIP prohibit out of school suspensions or expulsions. The District needs the ability to maintain a safe school environment by ensuring a student in danger of hurting himself or others is removed from the school environment to the extent necessary to prevent harm.

23. District policy, contained in "Student Guidelines for Success," provides that a student with disabilities is subject to the same disciplinary actions as non-disabled students with modifications. The policy provides, in relevant part:

Emergency Removal and Short-Term Suspensions

Procedures outlined in the Student Guidelines for Success are applicable when the action proposed or taken does not exceed the short-term timelines set forth in Chapter 180-40 WAC.

Emergency Expulsion

Notwithstanding the aforementioned provisions [Long-term suspensions/expulsions], if a handicapped student's behavior is such that his or her presence creates an immediate and continuing danger to the student, other students or school personnel, or an immediate and continuing threat of substantial disruption of the educational process, the student may be sent home. When this action constitutes a significant change in placement, it requires the implementation of the procedural safeguards set forth in section 504 of the Rehabilitation Act of 1973. The school shall provide and monitor homework during this period of time.

IEP Discipline Plans

Within the IEP process, which includes a meeting of the parent, teacher, and district representative who is qualified to provide or supervise special education services, a plan may be established for the discipline of a specific behavior in order to reach behavior goals. This plan may include removal from school for specified amounts of time as part of the IEP. The Student Guidelines for Success are not to be used when following the IEP plan as the IEP itself will prescribe the disciplinary procedures. Either school personnel or the parent may request a new IEP meeting if either finds that the plan is not satisfactory or in need of revision.

24. The District's Exceptional Misconduct policy provides, in relevant part, for short or long term suspension/expulsion for first time offenses, one of which is threatening or causing physical injury.

25. The Parents have asserted the District staff were not sufficiently trained to implement the IEP, respond appropriately to the Student's needs, or offer suggestions for changes in the BIP. However, the Student was served by his long time aide through December 2001 who was held in high regard by the Parents. The Student's new aide did not have training in autism. However, the Parents did not provide any specific concerns or incidents relating to a connection between training and the implementation of the IEP

and BIP. The evidence does not support a specific finding that staff were not able to implement the Student's IEP and BIP.

26. Three to four Elementary staff will attend a weekend training on Autism in July 2002.

27. The District and Parents have agreed to a plan for the 2002-2003 school year and have an August 2002 date set for an IEP meeting. The recent reevaluation and the amended Functional Behavior Assessment and BIP are agreed to with the exception of the Parents' request for the BIP to prohibit out-of-school suspension.

CONCLUSIONS OF LAW

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. Section 1401 et seq. (Individuals with Disabilities Education Act (IDEA)), Chapter 28A.155 RCW, Chapter 34.05 RCW, Chapter 34.12 RCW, and the regulations promulgated thereunder, including 34 CFR 300 et seq., and Chapter 392-172 WAC.

2. The Individuals with Disabilities Education Act (IDEA) (formerly the Education for All Handicapped Children Act) 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 Hendrick Hudson District Board of Education vs. Rowley, 458 U.S. 176, 102 S. Ct. 3034 (1982), 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. 103 S. Ct. at 3051.

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:

According to the definitions contained in the (Education for All Handicapped Children Act) 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' as defined by the Act. 103 S. Ct. at 3041, 3042.

Trained Staff

3. A school district is required to ensure that certificated staff delivering services to a special education student are appropriately and adequately prepared. WAC 392-172-200. Classified staff shall have the skills and knowledge necessary to meet the needs of students with disabilities and shall be supervised by appropriate certificated staff. A district is also required to ensure that classified staff receive training to meet state recommended core competencies pursuant to RCW 28A.415.310.²

4. In this case, the Student's aide was supervised by appropriately certificated staff. However, neither the aide or her supervisor, the resource room teacher, appear to have specific training on the Student's autism disability or positive behavioral interventions. Ms. Morse, the functional academics teacher with unchallenged appropriate training, developed the 2001-2002 IEP and BIP. She remained an available resource. There are no specific examples which demonstrate a connection between the Student's needs and a lack of staff training.

5. In any event, the Parents appear to have abandoned the issue without reference to it in their closing arguments. This may be due to the District's decision to send staff to a training on Autism over the summer and the revision of the BIP. The ALJ does not find a basis to address the issue further except to provide a cautionary note that the Parents may have had a legitimate concern that was not sufficiently reflected in the record.

Behavior Intervention Plan

6. In this matter, the Parents are largely concerned about the May 17, 2002 suspension. They assert that had the District given the April 2002 IEP/BIP revisions time

² See also WAC 392-172-561(1) which requires school districts to have on file with OSPI information demonstrating that all personnel necessary to carry out Part B of the IDEA are appropriately and adequately prepared.

to work, or had the District been responsive to the Student's escalating problems and notified the Parents, the suspension would have been prevented.

7. A school district has the obligation to timely and meaningfully address a student's behaviors that impede his learning. See WAC 392-172-156 and -159.³ Here, the Student began the 2001-2002 school year with an agreed upon IEP, FBA and BIP. The Student's behavior began to escalate in the second semester around March, and more seriously in mid-April. It seems likely this escalation was due to at least two unalterable stressors, the loss of his longtime aide and the illness of his grandfather. The question is, was the District too slow in calling an IEP meeting to address the Student's needs?

8. The District provided increasingly frequent notice of incidents to the Parents and worked informally with the Parents to meet the variable needs of the Student. The District called the Mother to discuss strategies, and held several meetings. Notably, the IEP team amended the IEP on March 13, 2002 and the school counselor began providing daily direct assistance at recess in mid-April, 2002. The District held another IEP meeting on April 30, 2002 to add and restructure services, folding back in some of the Student's second grade services. The Parents did not request any other IEP team meeting. Ultimately, the District also adopted all of the Parents' suggestions with one exception - its refusal to prohibit the out of school suspensions. Perhaps the District should have re-implemented some of the Student's second grade strategies earlier. And, understandably, the Parents were very upset over the May suspension, especially falling as it did during the family's loss of the grandfather. However, based on the weight of the evidence, the ALJ concludes that the District appeared to be timely and responsive to the Student's needs. The ALJ concludes that the Student's IEP and BIP for the 2001-2002 school year were appropriate and were modified and implemented as needed to address the Student's needs.

Disciplinary Exclusions

General Prohibition of Use of Out-of-School Suspensions

9. The Parents acknowledge the District's legal right to expel students. Nevertheless, they feel it is not morally or ethically appropriate because it does not meet the Student's needs. They request that the Student's BIP prohibit an out-of-school suspension.

10. The IDEA and implementing federal and state special education regulations acknowledge the potential for special education students to be improperly subject to

³ WAC 392-172-356 requires an IEP meeting as needed to revise and address a student's needs. WAC 392-172-159(2)(a) requires that an IEP must develop behavioral supports and strategies for a student whose behavior impedes his, or others, learning.

removal from school. See WAC 392-172-370. However, the regulations do not prohibit the removal of a special education student for disciplinary reasons, rather, they provide procedural safeguards that direct and contain the parameters of a removal. It provides a specific structure within which a district must operate when disciplining a special education student. See WAC 392-172-370 through -385.⁴ The ALJ concludes that this regulatory structure does not prohibit the District from using an out-of-school suspension as long as it complies with the regulations when it does so.

11. In support of their request to prohibit out of school suspension, the Parents cite to the District's discipline policy provision "IEP Discipline Plans." The ALJ agrees with the District, each provision of its "Student Guidelines for Success" policy must be read in context with other provisions because the structure of the policies does not create a hierarchy or order in which one must apply the provisions.

12. The "IEP Discipline Plans" provision allows the IEP team to establish a discipline process to either address a specific behavior or to reach behavior goals. Further, the District must follow the plan rather than use the discipline code. It specifically provides that removal from school can be part of the IEP. Although removal from school is absent in the Student's IEP, a common sense reading of all of the provisions suggests there may be some situations which more aptly call for implementation of the "Emergency Expulsion" policy regarding handicapped students rather than the "IEP Discipline Plans." Such is the case in the May 17, 2002 incident, which met with the requirements of the District's "Exceptional Misconduct" policy.

13. The ALJ concludes that the District is not legally *per se* prohibited either by special education law or District policies, from using an out-of-school suspension. It depends on the particular circumstances and District actions to determine whether the District erred. The Parents recourse if, or when, the District imposes an out-of-school suspension is to request an expedited hearing, pursuant to WAC 392-172-38400, or request a hearing to examine the appropriateness of the Functional Behavior Assessment, Behavior Intervention Plan and IEP, pursuant to WAC 392-172-350.

May 17, 2002 Suspension

14. The Parents assert that the District failed to comply with the disciplinary exclusion regulations when it suspended the Student on May 17, 2002. The Parents assert that the District was required, but failed, to conduct a manifestation determination meeting regarding the May 17, 2002 expulsion/suspension.

⁴See also 20 U.S.C. Sec. 1415(k)(1) through (10) (the IDEA on disciplinary actions).

15. **WAC 392-172-38300 Manifestation determination review requirements states,** in relevant part:

If an action is contemplated by a school district . . . that involves removing a student for weapons violations, drugs violations, behavior that is substantially likely to result in injury to the student or to others, or other behavior that violates any rule or code of conduct that applies to all students *which results in a change of placement* under WAC 392-172-373, the following actions shall be taken by the school district or other public agency:

- (1) Not later than the date on which the decision to remove the student is made, the parents must be notified of that decision and provided the procedural safeguards notice described under this chapter; and
- (2) Immediately, if possible but in no case later than ten school days after the date on which the decision to remove the student is made, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action.

(Emphasis added.)

16. The ALJ understands this provision to mean that if the District intended to impose a punishment that would cause a change in the Student's placement it must provide the Parents notice and hold a manifestation meeting. Change of placement is defined in WAC 392-172-373.

17. **WAC 392-172-373 Change of Placement for disciplinary removals** provides:

For purposes of removals of a special education student from the student's current educational placement under WAC 392-172-370 through 392-172-38410, a change of placement occurs if:

- (1) The removal is for more than ten consecutive days; or
- (2) The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

18. In this case, none of the individual suspensions were ten days or more. Therefore, the District's obligation to provide notice and hold a manifestation determination meeting would only be invoked once a pattern of exclusion of the Student was established. In-school suspensions may be considered a disciplinary exclusion. In general terms, a suspension is defined as "a denial of attendance (other than for the balance of the

immediate class period for "discipline" purposes) at any single subject or class, or at any full schedule of subjects or classes for a stated period of time." See WAC 180-40-205.

19. A pattern of exclusion is established not only by a number of days in excess of ten but also by each suspension's proximity to the other suspensions and by the length of each suspension. In this case, there are additional undocumented removals from class during the 2001-2002 school year. However, it is not possible to discern the number and dates of those removals. In part this is due to poor record keeping but it is also due to the complex interplay between the Student's therapeutic time outs and disciplinary removals. Nonetheless, the evidence established that generally the removals were short, not longer than the remainder of a specific class period. Such periods are not used to calculate an exclusion. Therefore, the ALJ concludes that the evidence does not establish the District disciplined the Student in excess of ten days or that the removals constituted a pattern of exclusion as defined above. Accordingly, the District was not required to conduct a manifestation determination meeting pursuant to WAC 392-172-373 when it imposed the May 17, 2002 three day suspension. The ALJ further concludes that while it would be preferable for the District to apply the progressive behavioral interventions of the IEP and BIP, if there is a point at which the safety of the Student or others is at imminent risk, the District is entitled to remove the Student, as long as it complies with the special education regulatory requirements.

Requested Remedies

20. The Parents requested a number of remedies which the District has included in the most recent modifications of the Student's 2002-2003 IEP. Therefore, they are moot and are not addressed here. The sole remaining requested remedy, a prohibition of the District's use of out-of-school suspension, is denied based on the foregoing analysis.

ORDER

1. The District's 2001-2002 Behavior Intervention Plan was appropriate and appropriately implemented.
2. The District complied with the disciplinary exclusions regulations, WAC 392-172-370 through -385.
3. The Parents' request for an order prohibiting the District from the use of out of school suspensions or expulsions in the 2002-2003 IEP BIP is denied.

Dated at Seattle, Washington this 31st day of July, 2002.



Mary L. Radcliffe
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

This is a final agency decision subject to a **petition for reconsideration** filed within ten days of service pursuant to RCW 34.05.470. Such a petition must be filed with the administrative law judge at his/her address at the Office of Administrative Hearings. The petition will be considered and disposed of by the administrative law judge. A copy of the petition must be served on each party to the proceeding and the Superintendent of Public Instruction. The filing of a petition for reconsideration is not required before seeking judicial review.

Pursuant to 20 U.S.C. Section 1415 (i) (Individuals with Disabilities Education Act) and Chapter 34.05.542 RCW, this matter may be further appealed to a court of law. The **Petition for Judicial Review** of this decision must be filed with the court and served on the Superintendent of Public Instruction, the Office of the Attorney General, all parties of record, and this office within thirty days after service of the final order. If a petition for reconsideration is filed, this thirty-day period will begin to run upon the disposition of the petition for reconsideration pursuant to RCW 34.05.470(3). Otherwise, the 30-day time limit for filing a petition for judicial review commences with the date of the mailing of this decision.

Certificate of Mailing

This certifies that a copy of the above Findings of Fact, Conclusions of Law and Order was served upon the parties or their representatives on 1/21/02, by depositing a copy of same in the United States mail, postage prepaid, addressed to the following:

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