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COURT OF APPEALS
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COURT OF APPEALS

OF THE STATE OF WASHINGTON

DIVISION III

QUINCY MARIN,

Appellant,

v.

SPOKANE PUBLIC SCHOOLS NO. 81,

Respondent.

ON APPEAL FROM THE SUPERIOR COURT OF

THE STATE OF WASHINGTON FOR SPOKANE COUNTY

BRIEF OF APPELLANT

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I. INTRODUCTION

This case is about the principles and rules of school discipline, and how the limits on a school's discretion in discipline further the right of each child, irrespective of personal circumstance, to a full public education. Most importantly, this case is about what happens to a student when his school and school district fail to properly follow these principles and rules.

Quincy Marin is a young man of color who was homeless at the time he arrived in Spokane and enrolled at Lewis and Clark High School. Although Quincy was 18 years old and behind in school credits, he really wanted to finish high school and earn his diploma. He came to Spokane with the goal of graduating high school, but he will likely not be able to do so because Lewis and Clark High School and Spokane School District, No. 81, exceeded the lawful limits on their authority.

From the day he first attempted to enroll, Quincy got the sense that he was not welcome at Lewis and Clark. First, school administrators delayed his enrollment for several days. Then, following his enrollment, they repeatedly attempted to steer him away from their school and towards getting his G.E.D. or transferring to a diploma equivalency program at a local community college meant for those who have dropped out of high school.

Quincy attended Lewis and Clark for a month without incident. On October 17, 2015, Quincy attended the homecoming dance. Following an argument with fellow students outside of the dance, Quincy and a school administrator became engaged in a verbal dispute, and the administrator alleged that Quincy threatened him. The night of the dance, that administrator emergency expelled Quincy. Later Lewis and Clark converted the emergency expulsion to an expulsion for the remainder of the school year, 151 school days. Lewis and Clark administrators once again suggested that Quincy get his G.E.D. or attend the diploma equivalency program at the community college. The District later reduced the discipline to a 61 school day suspension after Quincy appealed. This 61 school day suspension precluded Quincy from earning credit for the entire time he had attended Lewis and Clark, and it took the final steam out of his efforts to graduate high school before he turned 21.

School discipline is the domain of schools. Schools are constrained in their application of discipline by Washington State school discipline administrative rules. In its 61 school day suspension of Quincy, Spokane School District, No. 81, violated these limits, first by long-term suspending Quincy for behavior that did not qualify for or necessitate a long-term suspension, in violation of Washington Administrative Code. Secondly, the District exceeded these limits by suspending Quincy for

speech protected by the First Amendment. Acting in contravention of its Washington Constitutional "paramount duty" to educate, the District exceeded its authority to discipline. As a result, it alienated Quincy, causing his disengagement from his goal of graduating high school– a goal that is likely no longer achievable.

II. ASSIGNMENTS OF ERROR

1. The District's Board of Directors erred in its decision to uphold Quincy's 61 school day long-term suspension from Lewis and Clark High School.
2. The superior court erred by affirming the Board's decision to uphold Quincy's 61 school day long-term suspension from Lewis and Clark High School.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Did the District violate Washington school discipline administrative code when it upheld a 61 school day long-term suspension without previously having disciplined Quincy and when a 61 school day suspension was not reasonably warranted by the nature and circumstance of Quincy's behavior?
2. Did the District violate Quincy's Washington State Constitutional right to education when it upheld a 61 school day suspension?

3. Did the District violate Quincy's First Amendment right to free speech when it long-term suspended Quincy from his high school for 61 school days for arguing with and swearing at an administrator after being told to leave a school dance?

IV. STATEMENT OF THE CASE

A. Quincy Marin moved from California to Spokane in September 2015 with hope for a new beginning and to complete high school.

Quincy Marin (hereinafter "Quincy") arrived in Spokane from Fresno, California, in September 2015, looking for a fresh start and searching for "better opportunities." CP 74-75, 98 (Transcript of Student Discipline Hearing, 11-16-15, Appendix H). Because Quincy needed to work from a young age to support himself, he was behind in school credits. CP 74 (App. H).

Quincy remained on his own when he arrived in Spokane in early September, but he was determined to enroll in and finish high school. CP 74-75 (App. H). After attempting to enroll at two other schools, Quincy learned that he had a legal right to enroll at Lewis and Clark High School (hereinafter "Lewis and Clark") as his homeless shelter fell within its attendance area. CP 31 (Transcript of Student Discipline Appeal Hearing, 12-14-15; App. E), CP 74 (App H). Homeless students have the right to enroll at the school located in the attendance zone in which they are

staying at the time. 42 U.S.C. § 11431. Lewis and Clark is a high school in Spokane School District, No. 81 (hereinafter "the District.").

The day Quincy went to Lewis and Clark to enroll, principal assistant Taylor Skidmore told Quincy to come into his office. CP 75 (App. H). After Quincy introduced himself and explained that he was trying enroll in school, Mr. Skidmore commented on his appearance. He told Quincy that he had probably been stopped when he entered the school because of his clothing, a hooded parka and boots. Quincy recalls that Mr. Skidmore associated his wearing a hood with "nothing good ever happen[ing]." CP 32 (App. E); CP 75 (App. H). This was the first moment Quincy sensed that he was not wanted at Lewis and Clark. CP 75 (App. H). Following Quincy and Mr. Skidmore's initial discussion, two more administrators joined their conversation. The two administrators said they did not have registration forms and that, even if they did, they were not sure Quincy could enroll there. CP 75 (App. H). Quincy said that this experience made him feel belittled. CP 29 (App. E); 75-76 (App. H).

It took a long phone call, initiated by Quincy, to the District's homeless program liaison, Sarah Miller, before Lewis and Clark gave Quincy a registration packet. CP 76, 78-79 (App. H). Ms. Miller said that she believed homeless students would normally receive a registration

packet immediately upon request to a school. CP 79 (App. H). Quincy did not start school until the following week, because Lewis and Clark administrators told him that the guidance counselor who could create his schedule was out of the office until then. CP 75-76 (App. H). When Quincy met with this counselor to register, she suggested that Quincy enroll in a G.E.D. program or a credit retrieval program outside of the District because of his age, but Quincy "fought for [remaining at Lewis and Clark] for himself," according to Ms. Miller, who accompanied Quincy to his meeting with the counselor. CP 30 (App. E); 79 (App. H); *see also* CP 191 (Note from Lisa Renner, Guidance Counselor, Appendix R).

B. Quincy was expelled from Lewis and Clark for an alleged "threat to staff" at the homecoming dance.

For nearly a month, Quincy did not get into any trouble at school. CP 31-32 (App. E). On October 17, 2015, Quincy attended the homecoming dance at Lewis and Clark. CP 64 (App. H). Many of the following recollections about what happened at that dance come from the school discipline hearing and school board appeal. *See infra*, Section IV.C.

During the dance, Quincy was told multiple times by other students that they were upset with him for dancing with their friend

who had a boyfriend. Some of the students threatened Quincy, telling him to leave or they might hurt him. CP 81-82 (App. H). When Quincy tried to go outside for some fresh air, multiple girls confronted him. CP 82-83 (App. H); Video of Homecoming Dance (hereinafter "Video") at 10:20:32-50.[1] Mr. Skidmore, who was chaperoning the dance, saw the girls confronting Quincy. Mr. Skidmore positioned himself between the most aggressive girl and Quincy. CP 64 (App. H); Video at 10:20:32-52. Mr. Skidmore stuck out both of his arms in at "T" formation and pushed Quincy and the girls in different directions. CP 64 (App. H). One girl continued "coming at [Quincy]" after Mr. Skidmore had intervened, but Quincy did not visibly respond. CP 64 (App. H.); Video at 10:20:52-58. Without asking any questions, Mr. Skidmore told Quincy and only two of the girls to go home. CP 64 (App. H); Video at 10:20:55 (Mr. Skidmore putting his hand on Quincy and gesturing for Quincy to get out).

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[1] This video is a surveillance video of the foyer outside of the dance, showing most of the events described by witnesses in this case. The video was submitted to and viewed by the Spokane County Superior Court and all levels of review below. In his Designation of Clerk's Papers, Quincy requested that the Superior Court Clerk transfer it, along with the Clerk's Papers, to the Washington Court of Appeals, Division III. (Designation of Clerk's Papers, Appendix U). It is also attached hereto as Appendix V. The time stamp citations refer to the clock running in the top left of the video.

Quincy tried to tell Mr. Skidmore what had happened, pointing at the girls and then to himself while he did so. Video at 10:21:00. According to Mr. Skidmore's recollection, Quincy was also swearing, saying "F this F that." CP 64 (App. H). Mr. Skidmore later said he sent Quincy home because he was, "not going to allow [swearing] to happen at the dance." CP 86 (App. H).

Quincy can be seen on the video waiting calmly with a school resource officer for the friend he came to the dance with to collect her belongings. CP 27 (App. E); CP 88, 92 (App. H); Video at 10:39:35-10:40:10. When his friend was ready, Quincy left the school building. CP 92 (App. H); Video at 10:42:40. Mr. Skidmore, assistant principal Tracey Leyde, and the two school resource officers walked with Quincy out of the building. Video at 10:42:40. Other dance attendees remained in the foyer, with no disturbance apparently caused by the parties' exit. *Id.* Outside, Quincy argued that he should not have been sent home from the dance and that Mr. Skidmore should not have pushed him. CP 33-34 (App. E); CP 64 (App. H).

Mr. Skidmore told Quincy that he was emergency expelled. CP 93 (App. H). Quincy then said, according to his own memory, "You know what? I'm going to go to [the] school board and I'm going to basically let them know about you putting your hands on me." *Id.* Ms.

Leyde remembered Quincy saying to Mr. Skidmore, "I am going to the school board. I did not like how you put your hands on me. If you ever come near me again you'll regret it." CP 73 (App. H). Upon cross-examination, Mr. Skidmore agreed with this version of events, though previously he had only mentioned Quincy saying, "[t]ouch me again and see what happens." CP 95 (App. H).

Quincy walked away by himself. He got into his car and drove off school property. No one followed him to his car or had to force him to leave. CP 93 (App. H). There is no indication that the dance did anything but continue as normal when Quincy left.

Mr. Skidmore later gave conflicting reasons as to why Quincy was expelled. At one point, he said it was because of Quincy's language, disrespect, and insubordination. CP 91 (App. H). "Any student who is using language, who is being disrespectful towards anyone, whether it's a student or staff, I'm going to ask them to leave. And so the continuation of you not leaving, and not following instructions, is what led to this whole thing getting to where it got. You refused to follow instruction." *Id.* Quincy was never given written notice that he was emergency expelled for defiance or refusing to follow instruction. His written notice only said "threat to staff." CP

107 (Notice of Disciplinary Action Emergency Expulsion, Appendix K).

Mr. Skidmore also justified emergency expelling Quincy by claiming that Quincy threatened him. Yet, Mr. Skidmore testified twice that he told Quincy he was emergency expelled before Quincy made the statements he later alleged to be threatening. CP 89, 94-95 (App. H). Mr. Skidmore said he emergency expelled Quincy for looking at him and repeating, "'that mother fucker' in a posturous [sic] way even though he was standing 7 to 10 feet away or whatever." CP 95 (App. H). It was not until after Mr. Skidmore told Quincy he was emergency expelled that Mr. Skidmore said he felt most threatened—when Quincy said that he was going to the school board and that Mr. Skidmore would regret putting his hands on him. *Id.*

Jennifer Westfall, a secretary at Lewis and Clark who chaperoned the dance, testified that she began witnessing the altercation between Quincy and Mr. Skidmore when Mr. Skidmore intervened in the girls' confrontation of Quincy. She continued to observe until Mr. Skidmore and Quincy left the building. CP 66-68 (App. H). Ms. Westfall said that Quincy was being "argumentative and noncompliant," but she never heard Quincy make a "direct threat." CP 68 (App. H). The only specific words she recalled Quincy saying were, "Why? Why?" CP 68-69 (App. H).

Another School administrator, Theresa Meyer, testified that she saw the altercation from just after Mr. Skidmore pushed between Quincy and the girls through the time Quincy left the building. CP 69-70 (App. H). She testified that she did not hear Quincy threaten any staff member, but that she heard the "b word" and "f word thrown around quite a bit." CP 71 (App. H).

The Monday following the dance, October 19, 2015, Lewis and Clark assistant principal Dan Close sent Quincy notice that he was emergency expelled. CP 107 (App. K). As required by WAC 392-400-300(1), Mr. Close sent Quincy a written notice. The notice informed Quincy that he was emergency expelled for "threat to staff." *Id.*

On October 23, 2015, before its investigation of Quincy's behavior was complete, Mr. Close e-mailed a District administrator. Mr. Close wrote that Quincy "would not be returning to [Lewis and Clark]" and that they (meaning the District) should continue attempting to get him into Gateway to College, the non-District credit retrieval program that Lewis and Clark had previously advised Quincy to transfer to on multiple occasions. CP 97-99 (App. H); *also see* CP 28 (App. E). On October 28, 2015, the District converted the emergency expulsion to an expulsion for the 151 remaining days in the school year. The District again gave the reason of "threat to staff" for

expelling Quincy. CP 108 (Notice of Disciplinary Action Converted-Emergency Expulsion, 10-28-15, Appendix L). On October 29, 2015, Mr. Close called Quincy to again tell him he should look into Open Doors or Gateway to College. CP 106 (Phone Call Made to Student, Appendix J).

C. Quincy appealed his expulsion, first to a hearing officer, then to the District's Board of Directors, and then to Spokane County Superior Court.

On October 29, 2015, Quincy requested a discipline hearing to appeal his expulsion. CP 103 (Letter from Attorney Dan Ophardt Requesting a Hearing to Contest Student's Expulsion, Appendix I). Pursuant to Washington Administrative Code 392-400-285(1), this hearing was required to be scheduled within three business days. Because his request for a hearing was not answered by the District, Quincy contacted his own counsel, who renewed Quincy's request for a hearing on November 4, 2015. *Id.* A hearing then occurred on November 16, 2015. CP 62-102 (App. H).

The evidence presented at the hearing was limited to the unsworn testimony of several Lewis and Clark and District administrators and Quincy, a surveillance video from the homecoming dance, and eight documents provided by the District and Quincy. The hearing officer listed the District's three documents, and Quincy's

counsel listed his five documents at the beginning of the hearing. CP 63 (App. H). These documents were: (1) a notice of emergency expulsion; (2) a notice of discipline action converted; (3) a transcript of a voicemail that Mr. Close left for Quincy (incorrectly referred to as a "letter from Quincy" in the discipline hearing transcript); (4) a statement written by Quincy on October 21st; (5) a statement written by student K.R.:[2] (6) a statement written by student S.R.; (7) notes from guidance counselor Lisa Renner; and (8) a records request and fulfillment from Quincy's previous school district in California. *Id.* No other documents were presented to or admitted by the hearing officer during the proceeding. CP 62-103 (App. H). A large portion of the hearing was spent watching the surveillance video, which shows the immediate aftermath of the girls' confrontation of Quincy and the time that Quincy waited to leave the dance. CP 84-93 (App. H); Video of Homecoming Dance.

In a written decision issued the following day, the hearing officer reduced Quincy's 151 school day expulsion to a 61 school day long-term suspension through the end of the semester. The hearing

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[2] Initials are used in place of the juvenile student names.

officer did not provide a reason for the reduction. CP 60-61 (Hearing Officer's Decision, Appendix G).

Quincy requested an appeal to the District's Board of Directors (hereinafter "the Board") to dispute the 61 school day long-term suspension. CP 58-59 (Letter from Attorney Dan Ophardt Requesting Appeal to the School Board, Appendix F). The Board heard Quincy's appeal on December 14, 2015. The Board limited its review to the unsworn testimony of three School administrators and Quincy, the surveillance video, a transcript of the discipline hearing, and the same eight documents reviewed at the discipline hearing. CP 20-21, 23-24 (App. E). In its written decision of January 6, 2016, the Board upheld Quincy's 61 school day long-term suspension from Lewis and Clark. The Board wrote that, while it did not believe Quincy intended to threaten a school administrator, it could see how a reasonable administrator could have perceived Quincy's "profanity, posturing, and his agitated state" as threatening. CP 21 (School Board's Decision, Appendix D).

Pursuant to RCW 28A.645.010, Quincy appealed the Board's decision to the Spokane County Superior Court on February 4, 2016. CP 3-14 (Notice of Appeal to the Superior Court, Appendix B). Quincy asked the Court to reverse the District's long-term suspension

and order it removed from his discipline record. *Id.* at 14. Quincy also asked the Court to order that the District provide compensatory education services to him for the time it unlawfully excluded him from school, and for his litigation costs and attorney's fees. *Id.* The superior court wrote to both parties, saying that the appeal would be "based solely on the information that was provided in the original hearing" and that "no new testimony or evidence would be allowed." CP 15 (Letter from Department 5 Re: Oral Argument, Appendix C). Nonetheless, the District enlarged the certified record with 13 statements from individuals that were not in the record at the time of the discipline hearing or Board appeal. CP 16-139. Because the additional statements were not entered into the record at the original discipline hearing or Board appeal, Quincy did not have the opportunity to cross-examine their writers, as he has the right to do in WAC 392-400-285(2)(c) (2014) (chapter amended 2016). These documents were transmitted to this Court by the Superior Court Clerk, as part of the certified record, despite Quincy's counsel designating only what was in the administrative record. Designation of Clerk's Papers (Appendix U). The appendices attached hereto represent the entire administrative record along with the relevant Superior Court record.

On September 8, 2016, the Spokane superior court denied Quincy's requested relief and affirmed the Board's decision without providing any findings of fact or conclusions of law, either on the record or in its order. CP 198-99 (Notice of Appeal to the Court of Appeals, Division III, Appendix T); *see also* CP 192-93 (Court's Memorandum Decision, Appendix S).

V. SUMMARY OF THE ARGUMENT

The Constitution of the State of Washington provides a fundamental right to education: "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex." Const. art. IX, § 1. The use of "paramount" means that the State's first and highest priority is to amply provide for education for all Washington children. *McCleary v. State*, 173 Wn.2d 477, 520, 269 P.3d 227 (2012). "[A]ll children" embraces each and every child in the State, and "[n]o child is excluded." *Id.* at 520. RCW 28A.150.220 5(a) ensures that this right is extended to all youth up to the age of 21.

Any suspension from school for an extended period of time requires due process be provided to the suspended student. Suspension from the educational process for more than a trivial period is a serious event in the life of the suspended child. *Goss v. Lopez*, 419 U.S. 565, 576,

95 S. Ct. 729, 42 L.Ed.2d 725 (1975). Rules guaranteeing substantive and procedural due process to disciplined students are implemented and further described by Chapter 392-400 of the Washington Administrative Code and prescribed by RCW 28A.600.015. The District violated many of these rules. Specifically, it upheld a long-term suspension of a length that was not reasonably warranted by the nature and circumstances of the school rule violation. WAC 392-400-260(1) (2014) (chapter amended 2016). It also upheld this long-term suspension despite the fact that it had not previously disciplined Quincy for similar behavior, or any other behavior, and despite the fact that Quincy's behavior did not qualify as exceptional misconduct permitting a long-term suspension. WAC 392-400-260(2) (2014) (chapter amended 2016).

School districts have the power to address misbehavior. Indeed, they enjoy a degree of deference in the reasonable discipline of their students. *Goss*, 419 U.S. at 574. This discretion, however, is not unfettered. *Id.* at 574. "In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511, 89 S. Ct. 733, 21 L.Ed.2d 731 (1969). State and federal statutes, regulations, and common law inform and limit how and when schools can remove students from school for disciplinary purposes.

For example, the First Amendment of the Constitution protects the speech of public school students. U.S. Const. amend I; *see, e.g.*, *Tinker*, 393 U.S. 503; *LaVine v. Blaine School District*, 257 F.3d 981, 988 (9th Cir. 2001); The United States Supreme Court affirmed in *Tinker* that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." 393 U.S. at 506.

Quincy argues that the District violated his basic rights found in Washington State school discipline rules by long-term suspending him for behavior that did not qualify for a long-term suspension. Additionally, Quincy argues that the District violated his constitutionally protected right to free speech by suspending him for protected speech.

Quincy asks this Court to find that the District violated Quincy's First Amendment right to free speech and right to an education by first expelling him and then upholding a long-term suspension, excluding him from school for 61 school days. Further, Quincy asks the Court to order the District to remove the incident from Quincy's disciplinary record and award him compensatory education, attorney's fees, and costs.

VI. ARGUMENT

A. <u>This Court has the authority to overturn the District's 61 school day suspension of Quincy.</u>

1. Youth in Washington hold a "paramount" property right to a public education until they turn 21.

The Washington State Constitution and Washington statutes have guaranteed youth in Washington a right to a public education until the age of 21. Washington's constitutional language is considered to be one of the strongest state commitments to education. *See, e.g.*, Daniel Stallings, *Washington State's Duty to Fund K-12 Schools: Where the Legislature Went Wrong and What It Should do to Meet its Constitutional Obligation*, 85 Wash. L. Rev. 575, 575 (2010); William Thro, *To Render Them Safe: The Analysis of State Constitutional Provisions in Public School Finance Reform Litigation*, 75 Va. L. Rev. 1639, 1666 (1989). The Washington Supreme Court recently affirmed that all children residing in Washington possess a constitutional right to education and that it is the State's "paramount" duty to "make ample provision for their education." *McCleary v. State*, 173 Wn.2d 477, 518, 269 P.3d 227 (2012). The Court strongly affirmed the State's constitutional duty establishes a fundamental correlative right of all children to receive an education. *Id.* at 514-30.

In addition to the right arising from the Constitution, the Washington statutory framework requiring compulsory attendance of school also gives rise to a right to education. *Tommy P. v. Bd. of Cty. Comm'rs*, 97 Wn.2d 385, 386, 645 P.2d 697 (1982). This same statutory

framework transfers this duty from the state to individual school districts to make their basic education program available to all students. *See* RCW 28A.150.220(5)("Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age . . . and less than twenty-one years of age.").

In this case, the District was responsible for providing its kindergarten through twelfth grade basic educational program to Quincy because he resided in the District and was less than 21 years of age. The District's suggestion that Quincy transfer to the out-of-District, non-high school programs of Open Doors and Gateway to College did not accomplish its duty of providing its kindergarten through twelfth grade basic educational program to Quincy.

2. RCW 28A.645.010 gives State courts authority to review and overturn decisions of school boards.

RCW 28A.645.010 permits individuals to appeal decisions made by school boards to Washington State superior courts, which review them *de novo*. Quincy appealed his 151 school day expulsion to a District-hired hearing officer, who shortened Quincy's exclusion to 61 school days. CP 60-61 (App. G). Quincy appealed that 61 school day suspension to the District's Board of Directors, and the Board upheld the suspension. CP 20-21 (App. D). Quincy appealed this decision to the Spokane County

Superior Court, pursuant to RCW 28A.645.010. CP 3-14 (App. B). That court denied Quincy's requested relief in full. CP 192-93 (App. S). This Court now has the authority to review the Board's decision. RAP 2.2(1).

3. Courts have the authority to overturn school discipline when it violates federal or state law or regulation.

"Education is perhaps the most important function of state and local governments." *Brown v. Bd. of Educ.*, 347 U.S. 483, 493, 74 S. Ct. 686, 98 L.Ed. 873 (1954). Suspensions of ten days or more are "serious event[s]" in the lives of suspended children. *Goss v. Lopez*, 419 U.S. 565, 576, 95 S. Ct. 729, 42 L.Ed.2d 725 (1975). School districts must extend basic due process to suspended children because of the important property and liberty interests implicated by suspensions. 419 U.S. 565.

Washington courts have long recognized their authority to overturn school discipline when it violated law. In *York v. Wahkiakum School District No. 200*, the Court found that a school district's random drug testing and subsequent discipline of student athletes violated their constitutional rights. 163 Wn.2d 297, 316, 178 P.3d 995 (2008). In *Quinlan v. University Place School District*, the court overturned a 64 school day suspension of a student because the school district suspended her for a first offense without attempting alternative discipline, violating

Washington Administrative Code. 34 Wn. App. 260, 263-64, 660 P.2d 329 (1983).

4. This Court should review this case *de novo*, sitting in the same position as the superior court.

Appellate courts review quasi-judicial administrative agency decisions *de novo* and review the record that was before the agency. *Brown v. Dep't of Commerce*, 184 Wn.2d 509, 544, 359 P.3d 771 (2015). Despite the clear language of RCW 28A.645.010, *de novo* review is only available if the school board acted in a quasi-judicial manner. *Haynes v. Seattle Sch. Dist. No. 1*, 111 Wn.2d 250, 254-55, 758 P.2d 7 (1988). If the board's action appealed from is nonjudicial, then the court would review only to determine if the agency acted arbitrarily, capriciously or contrary to law. *Id.* In *Yaw v. Walla Walla Sch. Dist. 140*, the Court outlined the four factors courts use to determine whether an agency's decision was quasi-judicial or purely administrative. They are whether: (1) the court could have been charged in the first instance with the responsibility of making the decision; (2) the function of the agency is one that courts have historically performed; (3) the agency performs functions of inquiry, investigation, declaration and enforcement of liabilities as they stand on present or past facts under existing laws; and (4) the agency's action is

comparable to the ordinary business of courts. 40 Wn. App. 36, 38-39, 696 P.2d 1250 (1985).

In this case, the District's Board of Directors sat as judge of Quincy as he appealed his exclusion from school. The Board reviewed the record of the hearing below, which included direct and cross examination and arguments. The Board heard and assessed testimony and watched the surveillance video of the dance. Though Quincy continues to argue against the Board's interpretation of it, the Board attempted to apply First Amendment law to Quincy's case. Ultimately, it made a decision that upheld an enormous taking of Quincy's property interests: his right to an education at Lewis and Clark for 61 days. Because the District's Board of Directors conducted itself in a manner comparable to the ordinary business of courts, and its decision was a quasi-judicial one. This case should be reviewed *de novo* by this Court.

This Court reviews the Board's decision *de novo*, rather than reviewing the superior court's decision. Where "the trial court has not seen nor heard testimony requiring it to assess the credibility or competency of witnesses, and to weigh the evidence, nor reconcile conflicting evidence, then on appeal a court of review stands in the same position as the trial court in looking at the facts of the case and should review the record de novo." *Goodeill v. Madison Real Estate*, 191 Wn.

App. 88, 98, 362 P.3d 302 (2015). In reviewing quasi-judicial decisions of administrative agencies, the Court of Appeals reviews the agency's decision rather than the superior court's decision. *Waste Management of Seattle, Inc. v. Utilities & Transp. Comm'n*, 123 Wn.2d 621, 627-28, 869 P.2d 1034 (1994). Here, the record from the superior court proceedings is not relevant to this Court's review because the superior court did not hear new testimony. It only accepted briefings on the administrative record, heard 30 minutes of oral argument, and provided no findings of fact or conclusions of law.

This Court may overturn the Board's decision if "[t]he [Board] has erroneously interpreted or applied the law" or "[t]he order is not supported by evidence that is substantial when viewed in light of the whole record before the court." *Waste Management*, 123 Wn.2d at 627-28. Substantial weight is to be given to the agency's legal interpretation only to the extent that it falls within the agency's expertise in a special area of the law. *Superior Asphalt & Concrete Co. v. Department of Labor & Indus.*, 84 Wn. App. 401, 929 P.2d 1120 (1996). The rest of this brief will demonstrate that the Board misinterpreted or misapplied the law *and* that its order to continue to exclude Quincy from Lewis and Clark was, "not supported by evidence that is substantial when viewed in light of the whole record before the court." *See Waste Management*, 123 Wn.2d at

627-28. Specifically, the Board demonstrated no particular expertise in the area of First Amendment or school discipline law. Indeed, it expressly applied the incorrect standard for finding a "true threat" under *Kilburn,* as explained in Section VI.C.2., *infra*. Additionally, the Board did not even attempt to interpret Washington School discipline rules requiring that the District have attempted prior discipline or that Quincy's behavior have been exceptional misconduct, as discussed in Section VI.B.1., *infra*. For all of these reasons, this Court should overturn the Board's decision.

B. The District violated Washington State discipline rules by expelling and long-term suspending Quincy.

Suspensions of more than ten days are significant denials of property rights and require some degree of due process. *Goss v. Lopez*, 419 U.S. 565, 584, 95 S. Ct. 729, 42 L.Ed.2d 725 (1975). The State of Washington has recognized this, and the Washington State legislature directed the Superintendent of Public Instruction to distribute lawful and reasonable rules prescribing the substantive and due process guarantees of students. RCW 28A.600.015. These rules are implemented and further described by Chapter 392-400 of the Washington Administrative Code.

The intent of Chapter 392-400 WAC is to assure that school districts impose corrective action only "for just cause and in a fair and just manner." WAC 392-400-210 (2014) (chapter amended 2016). For

example, WAC 392-400 repeats in several places its requirement that a school consider the nature and circumstances of the rule violation in relation to length of removal before removing a student. *See, e.g.*, WAC 392-400-260(1) (2014) (chapter amended 2016), WAC 392-400-275(1) (2014) (chapter amended 2016). The District violated this rule in this case, as discussed in Section VI.B.2., *infra*. Further, the discipline must be tailored to the individual and should be progressive, meaning that consequences such as removal from school should initially be minimal and should only be increased if the same or similar behavior continues. *See, e.g.*, WAC 392-400-260(2) (2014) (chapter amended 2016); WAC 392-400-275(2) (2014) (chapter amended 2016). The District violated this rule in this case, as discussed in Section Section VI.B.1., *infra*. The District violated the conditions and limitations on a long-term suspension, found in WAC 392-400-260 (2014) (chapter amended 2016).

1. The District violated WAC 392-400-260(2) by upholding a long-term suspension where there was no prior discipline and no exceptional misconduct committed.

In upholding a long-term suspension of 61 school days, the District violated Washington Administrative Code 392-400-260(2) (2014) (chapter amended 2016). No student may be suspended for more than ten days, unless one of two exceptions applies:

(1) The school had previously imposed another form of discipline tailored to correct similar behavior by the student; or,

(2) The behavior constituted "exceptional misconduct," which the school district defined through consultation with an *ad hoc* citizen's committee by identifying categories of behavior that were of such frequent occurrence or difficult to control so as to warrant resorting to immediate long-term suspension. WAC § 392-400-260(2) (2014) (amended 2016).

Courts agree that schools must attempt other discipline before long-term suspending students. *Quinlan v. Univ. Place Sch. Dist.*, 34 Wn. App. 260, 264-65, 660 P.2d 263 (1983). In *Quinlan*, a high school student was suspended for 64 days because she had drunk alcohol before a school dance. *Id.* at 262. She had not been previously disciplined at her school. *Id.* at 263. Nonetheless, because of the school's zero-tolerance policy, her suspension was upheld by a hearing officer, school board, and superior court. *Id.* at 262-63. The district argued that its zero-tolerance policy required some deference because of the difficulties the district had had with the enforcement of student drinking. *Id.* at 265. The Court disagreed. The Court held that schools can only long-term suspend a student if "other punishment has been inflicted and has failed to attain the desired modification of the student's conduct," or "that other punishment

has not been inflicted but good reason exists to believe that the desired result, still modification of the student's conduct, would not be attained." *Id.* at 265.

The rule the *Quinlan* Court interpreted was WAC 180-40-260, the previous iteration of the long-term suspension WAC, which is now WAC 392-400-260. *Id.* at 263. WAC 392-400-260, as written, both now and at the time the District upheld Quincy's long-term suspension, no longer contains the clause that schools may long-term suspend if "there is good reason to believe that other forms of corrective action or punishment would fail if employed." Additionally, WAC 392-400-260(2) now includes an exception to the rule allowing districts to immediately long-term suspend for behavior that has been developed in district policy as "exceptional misconduct."

At both the discipline hearing and the appeal to the Board, the District failed to provide any evidence that Quincy had received prior discipline at Lewis and Clark High School, or that it had knowledge of any discipline Quincy received at any prior school. Lewis and Clark administrators, in fact, admitted that they had not had any disciplinary issues with Quincy. CP 31-32 (App. E). Quincy provided evidence from his most recent high school that he had not had any disciplinary issues there. CP 109-12 (Request for Student Records from TeamChild to

Geneva Wyatt at Washington Unified School District, Appendix M). The District did not justify its decision to discipline based on a failure of previous Lewis and Clark discipline to change Quincy's behavior.

Therefore, the District could only have long-term suspended Quincy if his behavior involved specific "exceptional misconduct," as developed through an *ad hoc* citizen's committee and written into the District's policies and procedures. *See* WAC 392-400-260(2) (2014) (chapter amended 2016). The District, however, did not argue that Quincy's behavior involved exceptional misconduct. The Board did not cite it in its written decision. In fact, the District never cited or entered into the record its own discipline policies and procedures.

Because the District failed to demonstrate that it had already attempted "another form of corrective action reasonably calculated to modify [Quincy's] conduct" or that Quincy had engaged in behavior involving specific "exceptional misconduct," upholding a long-term suspension was in clear violation of Quincy's rights under WAC 392-400-260(2).

2. The District violated WAC 392-400-260(1) by upholding a long-term suspension longer than was reasonably warranted by the nature and circumstances of Quincy's rule violation.

The District also violated the common principle of Washington school discipline rules, repeated throughout WAC 392-400, that any exclusionary discipline must be fairly proportional to the behavior to be addressed. For all long-term suspensions, "[t]he nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed." WAC 392-400-260(1) (2014) (chapter amended 2016). Additionally, the stated purpose of WAC 392-400 is "to assure that corrective action is imposed for just cause and in a fair and just manner," making clear that school discipline is meant to be a "corrective action." WAC 392-400-210 (2014) (chapter amended 2016).

The District never communicated its analysis of the fairness or the corrective purpose of Quincy's suspension. The District's hearing officer reduced Quincy's original 151 school day expulsion to a 61 school day long-term suspension without saying in writing why 151 school days was not warranted but 61 school days was. CP 60-61 (App. G). The Board was likewise silent on why it found the removal of a student for a full third of a school year to be fair. The Board only wrote that it did not believe Quincy held any intent to threaten staff, the very rule that he was disciplined for, yet it upheld Quincy's long-term suspension. CP 20-21 (App. D).

Neither Lewis and Clark's administrators, who presented and defended their discipline decision, the District's hearing officer, nor the Board articulated why the District's 61 school day suspension of Quincy was fair or served a corrective purpose for a student who the Board found held no intent to threaten staff. The District never articulated how a continued suspension of Quincy served to correct his behavior. Indeed, the Board acknowledged that Quincy—a homeless student, well behind in credits—was "advocating for himself" and met with a "difficult enrollment process" at Lewis and Clark, characteristics likely to make a 61 school day suspension uniquely detrimental to his completing his education and learning better behavior.

C. The District violated Quincy's First Amendment right to free speech by excluding him 61 school days for protected speech.

The District's violations of Washington Administrative Code alone are enough to find that its 61 school day long-term suspension violated Quincy's right to a public education. However, in addition to those violations, the lengthy suspension also violated Quincy's freedom of speech under the First Amendment of the United States Constitution. U.S Const. amend. I.

1. Speech is protected in public schools.

Students have First Amendment rights. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506, 89 S. Ct. 733, 21 L.Ed.2d 731, (1969) ("It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."). Although speech may be regulated by public schools, this regulation has constitutional limits. "In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views." *Id.* at 511. "True threats" are not protected by the First Amendment. *Lovell by & Through Lovell v. Poway Unified Sch. Dist.*, 90 F.3d 367, 371 (9th Cir. 1996). "True threats" are speech that "a reasonable person would foresee . . . would be interpreted . . . as a serious expression of intent to harm or assault." *Id. at* 371-72; *State v. Kilburn*, 151 Wn.2d 36, 44, 84 P.3d 1215 (2004). Additionally, schools may regulate otherwise protected school speech that creates a "substantial disruption to school activities" or a reasonable "forecast" of such substantial disruption. *Wynar v. Douglas County School District*, 728 F.3d 1062, 1067 (9th Cir. 2013); *Lavine v. Blaine School District*, 257 F.3d 981, 988 (9th Cir. 2001). In this case, Quincy did not make a "true threat." His speech neither caused an actual "substantial disruption to school activities" nor provided grounds for a

reasonable "forecast" of substantial disruption. The District violated Quincy's right to free speech.

2. Quincy's speech did not constitute a "true threat."

A "true threat" is not protected by the First Amendment. *Lovell by & Through Lovell v. Poway Unified Sch. Dist.*, 90 F.3d 367, 371-72 (9th Cir. 1996). A "true threat" is determined by an objective test, based on "whether a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of intent to harm or assault." *Id. at 372*. This test has been adopted by Washington and focuses on the speaker. *State v. Kilburn*, 151 Wn.2d 36, 44, 84 P.3d 1215 (2004). A "true threat" is speech where a "reasonable person in the [speaker's] place would foresee that in the context the listener would interpret the statement as a serious threat." *Id.* at 46. The Board misapplied the *Kilburn* test, writing that it did not believe that Quincy had intended to threaten Mr. Skidmore but that it did believe that a reasonable administrator could have perceived Quincy as threatening. CP 20-21 (App. D). The correct perspective is instead that of a reasonable person in Quincy's shoes.

The student in *Kilburn* told a classmate that "I'm going to bring a gun to school tomorrow and shoot everyone and start with you." *Kilburn*, 151 Wn.2d at 39. However, noting that the objective standard is a

"difficult standard to satisfy," the Court found the student's statement to not be a "true threat" because of the context of the speech and what a reasonable person in the student's position would have foreseen. The student had joked with his classmate before and smiled and giggled as he made the statement. *Id.* at 52-53 (noting that entire "factual context" must be analyzed).

In *Lovell*, the Court found that a student who was angry over not being helped by a guidance counselor did make a "true threat" when she said, "[i]f you don't give me this schedule change, I'm going to shoot you." 90 F.3d at 372. The court upheld the student's minimal three day suspension because the student did not meet her high burden of persuasion in a Section 1983 claim. *Id.* at 368, 373. The analysis undertaken by the Court in *Lovell* was less fact-intensive than that in *Kilburn*, as the Court looked more to the statement itself and found that the statement was "unequivocal and specific enough to convey a true threat of physical violence." *Id.* at 372. Both cases relied on the perspective of a reasonable person in the speaker's position.

In this case, Quincy had a history of knowing who to contact to legally air his grievances and get his needs met legally. He had called Ms. Miller, the District's homeless liaison, the day he first attempted to enroll

at Lewis and Clark and told her that Mr. Skidmore had not allowed him to register. CP 78 (App. H).

While recollections differed as to the exact words Quincy said as he left the dance, all three witnesses— Quincy, Mr. Skidmore, and Ms. Leyde— agreed that Quincy mentioned he was going to the school board. As the only uncontested statement, Quincy's reference to going to the school board contextualized any other more equivocal statements he may have made about Mr. Skidmore being "sorry," or that he would "see what happens." A reasonable person in Quincy's shoes would have forecasted this and other statements made immediately before or after to be interpreted to mean that Quincy was going to the school board in order to air these grievances, and that Mr. Skidmore would regret having pushed Quincy when the school board heard about it.

Quincy never mentioned any acts of violence. He did not say anything that could have been described as "unequivocal and specific enough to convey a true threat of physical violence," like the "I'm going to shoot you" from *Lovell*. Nor did he say anything as direct as "I'm going to bring a gun to school tomorrow and shoot everyone and start with you," that was found to not be a "true threat" in *Kilburn*. Removing Quincy's full statement about going to the school board, all that remains is testimony that Quincy swore at Mr. Skidmore in close proximity to Mr.

Skidmore, with vague mentions of "posturing." First Amendment law does not support a finding of a "true threat" with only swearing and "posturing."

"Under our Constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle but not in fact." *Tinker*, 393 U.S. at 513. To find a "true threat" based on swearing and vague descriptions of posturing, without any statement that a speaker could reasonable forecast to be interpreted as intention to physical harm, would be to further circumscribe free speech. With this full context in mind, and because of the absence of any words describing physical harm, a reasonable person in Quincy's shoes would not have forecasted his statements to be an expression of intention to inflict bodily harm upon or take the life of Mr. Skidmore. Quincy did not make a "true threat" at or as he was leaving the dance, and therefore, his speech was protected under the First Amendment.

3. Quincy's speech caused neither substantial disruption to school activities nor a reasonable forecast of substantial disruption to school activities.

Courts use *Tinker*'s substantial disruption test for student language considered by schools to be threatening. For a school to regulate otherwise protected speech in school, the speech must be speech that, "might reasonably [lead] school authorities to forecast substantial

disruption of or material interference with school activities," or in fact caused such substantial disruption. *Tinker v. Des Moines Indep. Cmty. Sch. Dist*, 393 U.S. 503, 513-14, 89 S. Ct. 733, 21 L.Ed.2d 731 (1969). Quincy's speech did not cause substantial disruption of school activities, and it did not cause a reasonable forecast of such substantial disruption.

a. Quincy's speech did not cause a substantial disruption of school activities.

Speech in school may be regulated if it "materially disrupts classwork or involves substantial disorder." *Tinker*, 393 U.S. at 513. This analysis is fact-intensive. There is no magic number of students or classrooms that must be affected by the speech. *J.C. v. Beverly Hills Unified Sch. Dist.*, 711 F. Supp. 2d 1094 (C.D. Cal. 2010). However, one court has held that something more than "a mild distraction or curiosity created by the speech" is required, though "complete chaos" is not. *Id.* at 1111 (quoting *J.S. ex rel. H.S. v. Bethlehem Area Sch. Dist.*, 807 A.2d 847, 868 (Pa. 2002)). In *Tinker*, where students wore black armbands to protest the Vietnam War, the Court found that, even with numerous student comments over the armbands and arguments over the armbands temporarily "wreck[ing]" one classroom, the speech did not substantially disrupt school activities. 393 U.S. at 514-17.

In this case, Quincy's speech did not cause substantial disruption to school activities. Mr. Skidmore had to respond to the girls' confrontation of Quincy outside of the dance, but he was there to respond to and control incidents of that nature. The District provided no evidence that the dance was cut short or interrupted.

Quincy also did not cause substantial disruption after he had left the school building, when the District alleged him to be threatening. The District provided no evidence that it took any extra security precautions or that Mr. Skidmore sought protection in response to Quincy's speech. It did not call any police or security in addition to that which was already at the dance. It did not provide any evidence that Quincy's speech in any way affected school when it reconvened the following Monday morning or any of the following 61 school days that Quincy was excluded. There simply was no evidence that Quincy's speech outside of the building caused any disruption to school activities, substantial, or otherwise.

b. Quincy's speech did not cause a reasonable forecast of substantial disruption of school activities.

Speech does not have to actually cause substantial disruption in order to be regulated if it "might reasonably [lead] school authorities to forecast substantial disruption of or material interference with school activities." *Tinker*, 393 U.S. at 514. This forecast of "substantial

disruption" must be more than an "undifferentiated fear or apprehension of disturbance." *Id.* at 508. Under the totality of circumstances, there must be specific facts surrounding the speech to lead school officials to reasonably forecast substantial disruption. *LaVine v. Blaine School District*, 257 F.3d 981, 989 (9th Cir. 2001). In this case, there was no evidence of facts relating to Quincy's speech that could have led to a reasonable forecast of substantial disruption.

For many of the same reasons that Quincy's speech did not constitute a "true threat," it could not have led to a reasonable forecast of substantial disruption. Quincy said nothing about violence and indeed voiced his intention to seek lawful redress. He left under his own power after having full access to Mr. Skidmore and having not been restrained.

Quincy's speech was protected speech that did not cause substantial disruption or a reasonable forecast of substantial disruption of school activities. By disciplining him and excluding him from Lewis and Clark based on his speech as he left the dance, the District violated Quincy's First Amendment right to free speech.

D. Quincy is entitled to compensatory education and attorney's fees.

1. The Uniform Declaratory Judgment Act gives the Court authority to issue equitable relief for the District's violation of Quincy's rights.

Under the Uniform Declaratory Judgment Act (UDJA), a person "whose rights, status, or other legal relations are affected by a statute" may have any question concerning the construction of that statute determined by the court and obtain a declaration of rights. RCW 7.24.020. Courts may make a determination under the UDJA whether or not further relief is or could be claimed. *Id.*; *see also, State ex. rel. Graham v. Northshore Sch. Dist. No. 417*, 99 Wn.2d 232, 239 (1983). The UDJA provides direct statutory authority for the Court to grant equitable relief. RCW 7.24.080 ("Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper."). The UDJA is "declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered." RCW 7.24.120. Quincy filed in superior court as both an appeal of a school district decision, Chapter 28A.645 RCW, and as a complaint under the UDJA, Chapter 7.24 RCW. CP 3-14 (App. B).

The statutory language in the UDJA allowing for equitable relief is directly comparable to other authority that courts have relied on to provide compensatory education based on statutory and constitutional violations that resulted in the deprivation of educational services to a child. Courts have ordered that equitable relief in the form of compensatory education is

appropriate in claims brought under 42 U.S.C. § 1983. *See, e.g., Newsome v. Batvia Local Sch. Dist.*, 842 F.2d 920, 922, 928 (6th Cir. 1988) (reparative relief, such as tutorial assistance to make up academic work missed, as a remedy for a procedural due process violation when a student was expelled from school).

Compensatory education and other forms of equitable relief should be granted in this case. Quincy sought determinations from the court regarding his right to a public education and his First Amendment right to free speech, similar to other cases where declaratory relief was sought to clarify constitutional and education rights. *See, e.g., McCleary v. State*, 173 Wn.2d 477, 512, 269 P.3d 227 (2012) (declaratory judgment sought as to whether the State is violating Article IX, § 1 of the Washington State Constitution); *Kuehn v. Renton Sch. Dist. No. 403*, 103 Wn.2d 594, 597 (1985)(Plaintiffs sought declaratory judgment through a 42 U.S.C. § 1983 claim regarding application of the student's Fourth Amendment right and school searches).

In addition to seeking a determination of his legal rights, Quincy requested that the court grant equitable relief in the form of compensatory education due to the extensive educational time he was denied. CP 14 (App. B). The UDJA grants courts the authority to provide further relief whenever necessary or proper. Quincy asks that this Court order a

determination of the correct form and amount of equitable relief Quincy is due for the violations of his legal rights.

2. There is a recognized ground in equity to award Quincy reasonable attorney's fees.

In Washington, attorney's fees may be awarded only when authorized by a private agreement, a statute, or a recognized ground of equity. *Fisher Props. v. Arden-Mayfair, Inc.*, 106 Wn.2d 826, 849-50, 726 P.2d 8 (1986). A court's inherent equitable powers authorize an award of attorney's fees in cases of bad faith conduct. *In re Recall of Pearsall-Stipek*, 136 Wn.2d 255, 961 P.2d 343 (1998). Bad faith includes "obstinate conduct that necessitates legal action to enforce a clearly valid claim or right," "vexatious conduct during the litigation," or the intentional bringing of "a frivolous claim or defense with improper motive." *Hiller Corp. v. Port of Port Angeles*, 96 Wn. App. 918, 982 P.2d 131 (1999).

The District's bad faith began on the night of the homecoming dance and has only grown throughout this appeal. Lewis and Clark administrators had already made clear to Quincy from very early on that they wanted him to attend an alternative program rather than attend their high school, even a G.E.D. program if that is what it would take to get him out. On the night of the homecoming dance, when Quincy grew weary at

another instance of feeling unwelcome by school administrators, he swore and told Mr. Skidmore that he was going to the school board. Mr. Skidmore and Ms. Leyde then left this statement out when they described Quincy as threatening at the discipline hearing. Instead, in their unsworn testimony, they relied on vague descriptions of posturing, swearing, and incomplete statements.

Mr. Close, who originally expelled Quincy for 151 school days, admitted that he had written an e-mail to a District administrator five days before that expulsion and before completing the investigation. Though he was in charge of the investigation and responsible for determining what discipline, if any, would be fair, Mr. Close admitted that in his email he wrote unequivocally that Quincy would not be returning to Lewis and Clark. Mr. Close said the administrator should do whatever "needed to be done" to get Quincy to Gateway to College, the same out-of-District program Lewis and Clark had tried to convince Quincy to transfer to long before. Administrators at Lewis and Clark, a publicly funded high school, did not want Quincy in school there. They found a reason they thought they could use to justify excluding Quincy. Because the law clearly says that Quincy could not be expelled or long-term suspended under the circumstances, Quincy followed through with his promise and went to the

Board. He has now endured more than a year of this appeal and suffered multiple District violations of his rights throughout the process.

The District, instead of admitting it was wrong when it had multiple chances to overturn Quincy's long-term exclusion, dug in its heels and maintained the exclusion for 61 days with no basis in the law. The exclusion itself constitutes bad faith, as the District remained "obstinate" through administrative appeals where it failed to provide credible evidence of a threat to staff and still continued to exclude Quincy anyway, "necessitating legal action to enforce his clearly valid claim or right." *Hiller Corp.*, 96 Wn. App. at 927.

"Vexatious conduct" refers to procedural misconduct and is grounds for attorney's fees in order to protect the efficient and orderly administration of the legal process. *Hiller Corp.*, 96 Wn. App. at 928. The "vexatious" conduct of the District in litigation constitutes bad faith, as it provided more than a dozen documents from outside of the administrative record to the superior court and filled its pleadings with citations to them, still causing inefficiencies for this Court and Quincy during this appeal.

Finally, the "frivolous defense" of the District constitutes bad faith. *See Hiller Corp.*, 96 Wn. App. at 929. The District repeatedly seems to justify its exclusion of Quincy on the basis of Quincy's swearing at an administrator or being defiant, even though its own evidence indisputably

shows that it provided notice to Quincy that he was expelled for a threat to staff, and even though all of these justifications would be unlawful under Washington Administrative Code. The bad faith of the District has lasted more than a year, requiring Quincy and his counsel to spend hundreds of hours to appeal his exclusion. The Court clearly has the equitable power to grant Quincy attorney's fees based on the District's misconduct.

VII. CONCLUSION

Quincy Marin is a vulnerable young man, a young man of color who was homeless and trying to graduate high school when he started at Lewis and Clark. Instead of being given the chance to graduate, he was suspended from Lewis and Clark for 61 school days, disengaging him from school and his goal of finishing high school. The District failed in its "paramount" duty to provide an education to Quincy. It had no lawful justification for withholding that right under Washington State discipline rules. The District also violated Quincy's First Amendment right to free speech by disciplining him for protected speech.

Quincy asks this Court to find that the District violated Quincy's First Amendment right to free speech and right to an education by suspending him for 61 school days. Further, Quincy asks the Court to order the District to remove the incident from Quincy's disciplinary record and award him compensatory education, attorney's fees, and costs.

Respectfully Submitted,

Daniel S. Ophardt, Esq.
WSBA# 46751
TeamChild
1704 West Broadway Ave
Spokane, WA 99201
Tel: (509) 323-1166
Fax: (509) 381-7176
Daniel.ophardt@teamchild.org

Dated: December 23, 2016

DECLARATION OF DOCUMENT FILING AND SERVICE

I, Daniel Ophardt, declare that on this 23rd day of December, 2016, I caused the original BRIEF OF APPELLANT to be filed at the Washington State Court of Appeals, Division III, and a true copy of the same to be served in person on the following:

Gregory Stevens, WSBA# 15627
Stevens-Clay PS
421 W Riverside Ave Ste 1575
Spokane, WA 99201-0409
Spokane, WA 99201
Tel: 509-838-8330
Fax: 509-623-2131
Email: GStevens@stevensclay.org

DATED this 23rd day of December, 2016 at Spokane, Washington.

Respectfully,

Daniel S. Ophardt, Esq.
WSBA# 46751
TeamChild
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Spokane, WA 99201
Tel: (509) 323-1166
Fax: (509) 381-7176
Daniel.ophardt@teamchild.org

Appendix A:
Summons (CP 1-2)

FILED

FEB 04 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Superior Court of Washington
For the County of Spokane

MARIN, QUINCY
12/1/1996,

Plaintiff/Appellant,

vs.

SPOKANE PUBLIC SCHOOLS NO. 81,
a municipal corporation.

Defendant/Respondent.

No. 16200466-5

Summons

TO: SPOKANE PUBLIC SCHOOLS and the SPOKANE PUBLIC SCHOOLS BOARD OF DIRECTORS, through its attorney, Gregory Stevens of Stevens-Clay, PS

An appeal of a school board decision has been filed against you in the above entitled court by Quincy Marin, Plaintiff/Appellant, through his attorney, Daniel Ophardt with TeamChild. Plaintiff/Appellant's claim is stated in the written complaint, a copy of which is served upon you with this summons.

Pursuant to RCW 28A.645.020, within twenty days of service of the notice of appeal, the school board, at its expense, shall file the complete transcript of the evidence and the papers and exhibits relating to the decision for which a complaint has been filed.

GR 34 FEE WAIVER

TeamChild
1704 W. Broadway
Spokane, WA 99201
Phone 509-323-1166
Fax 509-232-3051

This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED this 4th day of February, 2016.

Daniel Ophardt, WSBA# 46751
Attorney for Quincy Marin
TeamChild
1704 W. Broadway
Spokane, WA 99201

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Fax 509-232-3051

Appendix B:

Notice of Appeal to the Superior Court (CP 3-14)

FILED

FEB 04 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

MARIN, QUINCY, 12/1/1996, Plaintiff/Appellant, vs. SPOKANE PUBLIC SCHOOLS NO. 81, a municipal corporation, Defendant/Respondent.	No. 16200466-5 **NOTICE OF APPEAL OF SCHOOL DISTRICT DECISION (RCW 28A.645.010) AND COMPLAINT FOR DECLARATORY RELIEF**

Comes now Plaintiff/Appellant Quincy Marin, by and through his attorney, Daniel Ophardt of TeamChild, and hereby makes the following appeal and complaint:

I. Introduction

Quincy Marin is a nineteen year-old homeless student who started attending Lewis and Clark High School near the beginning of the 2015-2016 school year. Quincy attended Lewis and Clark High School in Spokane Public Schools (hereafter "the District") regularly until he was emergency expelled on October 17, 2015, for alleged "threats to staff." On October 28, 2015, the District converted Quincy's emergency expulsion to an expulsion through the end of

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the 2015-2016 school year, June 17, 2016, or for approximately 151 school days. Quincy appealed the discipline decision to a Hearing Officer and then to the District's Board of Directors. On November 17, 2015, the Hearing Officer converted the expulsion to a long-term suspension through the end of the first semester, January 29, 2015, making the school exclusion approximately 61 school days. The Board of Directors upheld the long-term suspension on January 6, 2016.

By the time Quincy returned to school following the end of his long-term suspension, he had been excluded from attending for approximately 61 school days. Quincy now appeals the District's discipline decisions and his extended exclusion from Lewis and Clark High School.

II. Jurisdiction and Venue

1. Jurisdiction is conferred upon this Court by RCW 28A.645.010 (appeals from school official action), Chapter 7.24 RCW (Declaratory Judgment Act), RCW 2.08.010 (original jurisdiction of Superior Court), and Article 4, § 6 of the Washington State Constitution.

2. Venue is proper in Spokane County, Washington pursuant to RCW 28A.645.010 and RCW 4.12.025 (residence of Defendant/Respondent).

III. Parties

3. Plaintiff/Appellant Quincy Marin is a 19 year-old student living in Spokane, Washington, and lawfully enrolled in Spokane Public Schools.

4. Defendant/Respondent SPOKANE PUBLIC SCHOOLS No. 81 ("the District") is a lawfully organized local school district in Spokane County, Washington. The District's administrative office is located in Spokane, Spokane County, Washington.

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IV. Factual Allegations and Procedural History

Quincy's Background

5. Quincy Marin is a 19 year-old, multiracial student, who was homeless at the time he enrolled in the District.

6. Quincy has been without his biological parents for many years. He was adopted by his aunt and uncle after being abandoned as an infant.

7. At age 14, Quincy became homeless after suffering from verbal abuse from his aunt and a hostile environment in the home.

8. Quincy moved to Spokane from Fresno County, California in September 2015. He hoped for a fresh start and to be able to finish his education after struggling to survive on his own had delayed his education in California. It was his goal to finish high school at a traditional high school and proceed to college—his idea of a normal route to success, and a goal he held for himself despite being a couple years late.

9. Upon his arrival in Spokane, Quincy attempted to enroll at Lewis and Clark High School, as it was the closest high school to the House of Charity, the homeless shelter where he lived at the time.

10. When Quincy went to Lewis and Clark High School to enroll, he was confronted by school administrators about his appearance and clothing and about whether the school was the right choice for him because he was behind on credits and already 18. When Quincy asked the secretary for the enrollment packet, Principal Assistant Taylor Skidmore asked Quincy to come into his office, and told Quincy that he was "stopped because people worry about people who look like [Quincy]." As Quincy was not stopped by anyone other than Mr. Skidmore, this and further comments about Quincy's appearance and clothing gave

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Quincy the impression that Mr. Skidmore did not want him to enroll at Lewis and Clark High School. It took more than an hour and a phone call to the District's homeless liaison for school administrators to give Quincy the enrollment packet he was lawfully entitled to receive without delay.[1]

11. Quincy states that during his first month enrolled at Lewis and Clark High School, Mr. Skidmore followed him and often antagonized him at school. At one point, Mr. Skidmore followed Quincy throughout the large school at lunchtime, though Quincy had not done anything to warrant the attention, monitoring, or intimidation of a school administrator. Often in his first few weeks of school, Quincy needed to sign himself out of class to take care of appointments having to do with his move from California. When he did this, Mr. Skidmore often interrogated him about his appointments, even though it was not normal for Mr. Skidmore to be part of the sign-out process for other students. Quincy also noticed that Mr. Skidmore asked students he saw with Quincy if they knew much about him. Quincy noticed that, after being asked these questions by Mr. Skidmore, fellow students became suspicious of him, although they had never been before, simply because of this questioning. Quincy felt harassed and intimidated by Mr. Skidmore throughout his first month at Lewis and Clark High School.

12. Quincy received no discipline in his first month at Lewis and Clark High School.

District Emergency Expels Quincy

[1] Quincy had the right to immediately enroll at Lewis and Clark High School, pursuant to the McKinney-Vento Homeless Assistance Act of 1987. 42 U.S.C. §11432(g)(3)(C).

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13. On the evening of Saturday, October 17, 2015, Quincy attended the Homecoming dance at Lewis and Clark High School.

14. Late in the dance, a group of young women aggressively confronted Quincy in the hallway. The confrontation appears to have been motivated by the young women's conclusion that Quincy had danced too close to one of their friends.

15. Video surveillance captured this confrontation, but it did not capture audio. No one has disputed that the female students started the confrontation.

16. Mr. Skidmore was in the hallway at the time of the confrontation and placed himself between Quincy and the female students. Mr. Skidmore physically pushed both parties away from each other.

17. Quincy became upset by both the female students' sudden confrontation and Mr. Skidmore pushing him. He began to swear quite a bit and tell Mr. Skidmore not to push him.

18. Mr. Skidmore told some of the students involved, including Quincy, that they needed to leave the dance.

19. After Quincy was asked to leave, he waited calmly with a school resource officer while his date collected her belongings. The surveillance video confirms that Quincy waited during this time period without incident.

20. When Quincy left the building, he was accompanied by the resource officers. Mr. Skidmore and Assistant Principal Tracy Leyde followed as well. In his written statement and at the discipline hearing, Mr. Skidmore stated that his purpose for following them outside was to tell Quincy that he was emergency expelled.

21. While outside, Quincy continued to voice his anger about Mr. Skidmore's

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singling him out that evening and over the course of the previous month, and about the fact that Mr. Skidmore had pushed him.

22. Mr. Skidmore told Quincy he was emergency expelled.

23. After already being told he was emergency expelled and shortly before leaving in his car, Quincy told Mr. Skidmore that he would be going to the school board regarding the incident, that Mr. Skidmore would regret pushing him, and that he had better not touch him again.

24. Lewis and Clark High School administrators alleged that Quincy's statement to Mr. Skidmore was a threat warranting an expulsion for the rest of the school year. They also said that Quincy's emergency expulsion was for this alleged threat, though Mr. Skidmore has said that he told Quincy that he was emergency expelled before Quincy allegedly threatened him.

25. The people in the vicinity of the conversation were Assistant Principal Tracey Leyde, Mr. Skidmore, Quincy, school resource officer William DeCaro, and school resource officer Walt Pegream.

26. Though they recalled different wording in their written statements and when asked about it at the discipline hearing, Ms. Leyde and Mr. Skidmore agreed to the general facts in Quincy's statement: that is, Quincy said that he was going to the school board and that Mr. Skidmore would regret pushing him. Quincy never claimed to recall his exact words, but agreed with the same general facts.

27. In written statements, neither William DeCaro nor Walt Pegream, the two school resource officers present when Quincy left, recalled threats, and neither of them was produced for the discipline hearing.

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28. Quincy denied threatening Mr. Skidmore. He denied it in his multiple written statements, at the discipline hearing, and at the Board of Directors appeal. He agrees that he said he would be going to the school board and that Mr. Skidmore would regret pushing him. Quincy did not intend this statement as a threat.

29. Quincy received written notice of his emergency expulsion on October 20, 2015. In Washington, emergency expulsions may only last up to 10 days before terminating or converting into another form of discipline.[2]

District Expels Quincy for the Remainder of 2015-2016 School Year

30. In a notice dated October 28, 2015, the District expelled Quincy for the remainder of the school year. The notice was signed by Daniel Close, Lewis and Clark High School Assistant Principal.

31. The last day of the 2015-2016 school year for the District is June 17, 2016. Since Quincy was emergency expelled beginning on October 19, 2015, this punishment would have removed Quincy for 151 school days.

District Converts Quincy's Expulsion to a Long-term Suspension

32. Quincy requested an appeal of his expulsion on October 29, 2015, with a handwritten and personally delivered request to District Student Services. The request met the requirements of Washington Administrative Code 392-400-280. Student Services stamped the request as received. The District failed to respond to his request and schedule a hearing to

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[2] See WAC 392-400-295.

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occur within three days, as required by Washington Administrative Code 392-400-285, thereby violating Quincy's due process rights.

33. On November 4, 2015, Quincy renewed his request through counsel. An appeal hearing was held on November 16, 2015.

34. At the hearing, the District provided evidence of Quincy's statements and demeanor on the night of the Homecoming dance through witness testimony of several school administrators and staff.

35. As the District declined to present it, Quincy presented the school's surveillance video of the incident. Quincy also presented handwritten statements the District had gathered from fellow students in its investigation but had declined to present at the hearing, his own witness testimony and prior written statement, and his discipline record from his former school, showing no prior discipline.

36. In a letter dated November 16, 2015, the Hearing Officer overturned the expulsion and converted it to a long-term suspension through January 29, 2016. The Hearing Officer listed no findings or basis for this ruling. Further, the Hearing Officer recommended that Quincy not return to Lewis and Clark High School after his suspension ended, but instead that he find another program in which he could earn credits more quickly.

District's Board of Directors Upholds Long-term Suspension

37. Through a letter from counsel, Quincy requested an appeal of the Hearing Officer's decision on November 20, 2015.

38. The Board of Directors heard Quincy's appeal on December 14, 2015. Four of the five Directors were present.

39. The Board of Directors had access to a transcript of the previous appeal hearing,

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watched the surveillance video, once again presented by Quincy, and asked both Quincy and the school administrators questions.

40. The Board of Directors upheld the Hearing Officer's decision in its letter dated January 6, 2016.

41. In its letter, the Board of Directors wrote that it did "not believe that Quincy intended his actions to be a threat to Lewis and Clark administrators. Nonetheless, in looking at this even through the eyes of a reasonable administrator, the School Board can understand how Quincy's actions, including profanity, posturing, and his agitated state, could be perceived as threatening."

Quincy's Current Circumstances

42. The emergency expulsion and long-term suspension are recorded in Quincy's discipline record and student file with the description of "threats to staff."

43. Quincy had no prior discipline notes in his discipline record, either at Lewis and Clark High School or his former high school in Fresno County, California.

44. Discipline records remain part of a student's permanent school record and can impact future educational options, college admissions, and job opportunities.

45. Because the final day of Quincy's long-term suspension was January 29, 2016, Quincy has returned to Lewis and Clark High School.

46. One of the programs that Lewis and Clark High School and the District suggested would allow Quincy to earn credits faster, Gateway to College at Spokane Falls Community College, did not accept Quincy to start until March 2016. Quincy attended meetings at Gateway in both November 2015 and January 2016, hoping to be able to earn credits, but the program was not open to him.

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47. As a result, Quincy has earned no credits toward graduation since moving to Spokane in September 2015 with the hope of focusing on his education, graduating high school, and entering college.

48. Though there were multiple school resource officers in attendance at the dance and contacted during the incident resulting in Quincy's exclusion, and though there was videotape surveillance of the same incident, Quincy was not arrested or charged with any crimes related to the incident.

49. Before Quincy's long-term suspension concluded and he returned to school on February 1, 2016, Quincy had been excluded from attending school for approximately 61 school days.

50. Quincy has been negatively impacted by being excluded from so much school. He earned no credits in his first semester in the District, and he spent more than three months being told he did not belong at Lewis and Clark High School, despite his strong desire to finish his high school diploma in a comprehensive high school. Because of this, Quincy has been depressed and made no educational progress during his time of exclusion.

V. Claims for Relief

51. Quincy is entitled to an expeditious *de novo* hearing on his appeal of the District's decision to uphold his long-term suspension, pursuant to chapter RCW 28A.645.030.

52. The District erred by excluding Quincy for 61 school days with no legal justification, despite the District's prior knowledge about the extremely harmful effects of

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missing even a few days of school.[3]

53. The District's emergency expulsion, converted to an expulsion, converted to a long-term suspension of Quincy violated his right to free speech, as he made no true threat.

54. The District violated RCW 28A.600.020 (3) by not attempting other forms of corrective action before long-term suspending Quincy.

55. The District violated WAC 392-400-260 by not attempting other forms of corrective action before long-term suspending Quincy.

56. The District violated its own Policies and Procedures[4] by not attempting other forms of corrective action before long-term suspending Quincy. Student Rights and Responsibilities Procedure 3200(II)(E) states that, "As a general rule, no student shall be suspended for a long-term unless another form of corrective action or punishment reasonably calculated to modify his/her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature."

57. The District has failed to fulfill the paramount duty of the State to make ample provision for the education of all children, and specifically for Quincy, as guaranteed by the

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[3] In 2012, the United Way, the Empire Health Foundation, and the Inland Northwest Community Foundation commissioned a study of risk factors for high school dropout in Spokane Public Schools. It found that missing school was by far the most predictable risk factor to eventual dropout. It found that only 53% of students in Quincy's grade level, 11th, eventually graduated after having four or more unexcused absences during their junior year. Further, it found that disciplinary exclusion worked much the same way as unexcused absences. "An out of school suspension or an expulsion is strongly predictive of eventual withdrawal from high school without a diploma." The study found that while three out of four students who never had a major disciplinary incident graduated high school, only one out of four students who did at any point have a major disciplinary incident eventually graduated high school. Mary Beth Celio, Getting to Graduation and Beyond: Identifying Indicators of Risk of Failure for Students in the Spokane Public Schools, United Way Spokane (Feb.3, 2016, 3:40 PM), http://www.unitedwayspokane.org/documents/pdfs/SpokanePublicSchoolsReportMay%2022012.pdf.

[4] The District is required to develop and enforce discipline policies and procedures, pursuant to RCW 28A.600.010.

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Washington State Constitution art. IX and implemented through Title 28A RCW, Chapter 392-400 WAC, and District policies and rules.

VI. Relief Requested

Plaintiff/Appellant Quincy Marin requests the following relief:

A. That the Court take jurisdiction over this matter;

B. That the Court review this matter *de novo* in an expeditious manner as required by RCW 28A.645.030;

C. That the Court reverse the District's decision to emergency expel and long-term suspend Quincy and order the removal of record of them from his disciplinary record;

D. That the Court order that the District provide compensatory education services to Quincy;

E. That the Court award costs and reasonable attorneys' fees; and,

F. That the Court order any other relief that the Court finds necessary and proper.

DATED this 4th day of February, 2016.

Daniel Ophardt, WSBA #46751
Staff Attorney, TeamChild
1704 W. Broadway
Spokane, WA 99201

Appendix C:
Letter from Department 5 Re: Oral Argument (CP 15)

SPOKANE COUNTY COURT HOUSE

Superior Court of the State of Washington
For the County of Spokane

Department No. 5

Michael P. Price
Judge

Kati Dorman
JUDICIAL ASSISTANT

Crystal Hicks
COURT REPORTER

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(509) 477-4766 • FAX (509) 477-5714 • TDD: (509) 477-5790
dept5@spokanecounty.org

FILED

FEB 09 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

February 9, 2016

Daniel Sean Ophardt
Team Child
1704 W. Broadway Ave. Fl 1
Spokane, WA 99201

Gregory L. Stevens
Stevens Clay, PS
421 W Riverside Ave Ste. 1575
Spokane, WA 99201-0409

RE: MARIN, QUINCY V SPOKANE PUBLIC SCHOOLS NO 81
No. 2016-02-00466-5

Dear Counsel:

This case has been assigned to Judge Michael P. Price. Enclosed is a copy of the Briefing Schedule. Please note that no continuances will be granted unless a party files a motion for continuance and schedules a hearing on the motion with me.

As the appellant it is your responsibility to serve the respondent with all materials filed and to request the record and transcript. Both parties are required to submit briefs for Judge Price's review. This appeal is based solely on the information that was provided in the original hearing; no new testimony or evidence will be allowed. Oral argument is scheduled for **April 29, 2016, at 9:30 a.m.**

Please provide Judge Price with working copies of your briefs. If I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Kati Dorman, Judicial Assistant to
Michael P. Price
Superior Court Judge

cc: Court File
Enclosure

Appendix D:
School Board's Decision (CP 20-21)

Board of Directors
200 North Bernard Street
Spokane, WA 99201-0282

phone (509) 354-7364
fax (509) 354-5965
www.spokaneschools.org

Spokane Public Schools
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January 6, 2016

Via Regular Mail and Facsimile

Daniel Ophardt, Staff Attorney
TeamChild
1704 W. Broadway
Spokane, WA 99201
Fax: 509-232-3051

RE: Quincy Marin Long-Term Suspension Appeal

Dear Mr. Ophardt:

A hearing was held before the Spokane School District Board of Directors on Monday, December 14, 2015, to contest the long-term suspension imposed on Lewis and Clark High School student Quincy Marin. Quincy attended this hearing along with you, as his attorney and representative. Dan Close, Assistant Principal, appeared on behalf of Lewis and Clark. Also in attendance was Dr. Shelley Redinger, Superintendent of Schools, Greg Stevens, School District attorney, Jeremy Ochse, Lewis and Clark High School Principal, and Dr. David Crump, Director of Student Services.

By way of background, Lewis and Clark High School imposed an emergency expulsion on Quincy Marin for "threat to staff." Lewis and Clark then converted this emergency expulsion to a regular expulsion to run through the end of the 2015-2016 school year. Quincy, through his attorney Dan Ophardt, appealed this expulsion. School District Hearing Officer, Bonnie Ducharme, held a hearing between the parties. Ms. Ducharme upheld Lewis and Clark's emergency expulsion, yet overturned the regular expulsion and converted it to a long-term suspension through January 29, 2016. Quincy, through his attorney Daniel Ophardt of TeamChild, appealed this decision of long-term suspension to the School Board.

The first order of business was for the School Board to decide how the appeal was to be handled. On behalf of Quincy, you and representatives from Lewis and Clark recommended that the appeal be handled as follows:

1. The School Board be provided with a copy of the transcript from the earlier hearing, along with all exhibits and documentation submitted by Lewis and Clark and by Quincy Marin. The Board would review and study these documents.

2. Quincy and Mr. Ophardt would be allowed to show and comment upon a video depicting events during a dance at Lewis and Clark on October 19, 2015, the date when the alleged misconduct occurred. Mr. Dan Close, Assistant Principal at Lewis and Clark, would likewise be allowed to comment on the video.

3. Both sides would be allowed to make summations/closing arguments. The Board considered the parties' recommendations and agreed to follow this process. The hearing before the Board commenced in accordance with these procedures.

Spokane School Board has carefully considered all of the evidence, including the transcript, exhibits submitted before Hearing Officer Ms. Ducharme, video of the Lewis and Clark dance, statements and arguments by Quincy, his attorney, and Dan Close of Lewis and Clark.

One of the issues that received some attention and concern was the apparently difficult enrollment process that Quincy initially encountered upon arriving at Lewis and Clark. As a young man advocating for himself, the School Board is disappointed that Quincy encountered such difficulties, which appears to have created a poor initial impression for him at Lewis and Clark. The Board asked School District administration to review this mid-year enrollment process to ensure that it is as accommodating and easy as possible.

Quincy was disciplined by Lewis and Clark for "threats to staff." In reviewing all of the information and considering Quincy's own testimony, the Board does not believe that Quincy intended his actions to be a threat to Lewis and Clark administrators. Nonetheless, in looking at this event through the eyes of a reasonable administrator, the School Board can understand how Quincy's actions, including profanity, posturing, and his agitated state, could be perceived as threatening. Therefore, the School Board upholds Lewis and Clark's actions in emergency expelling Quincy and further upholds the hearing officer's modification of Quincy's discipline to a long-term suspension through January 29, 2016. It is also the decision of the School Board to reinstate Quincy into Spokane School District immediately, albeit not at Lewis and Clark High School, so that he can continue his education and have the opportunity to obtain some credits towards graduation. School District administrators have been directed to work with Quincy while he is on long-term suspension to provide him access to an appropriate School District program, such as Gateway or the ICAN program that would give Quincy an opportunity to earn some credits this semester. School District administration and/or counselors also have been asked to meet with Quincy as soon as possible to develop a reengagement plan for his enrollment in the District next semester. This plan should allow Quincy the best opportunity to gain credits in order to reach his goal of receiving a high school diploma. This plan should consider all appropriate programs available in the District, taking into account Quincy's age and number of high school credits obtained to date. However, it needs to be clear that if Quincy's choice is to return to Lewis and Clark High School for the second semester, he is entitled to do so.

The School Board appreciates the advocacy of Quincy and his attorney, and values Quincy's efforts to further his education. The professionalism of Lewis and Clark administrators is commended as well.

Deana Brower

Deana Brower, President
Spokane School Board

cc: Dr. Shelley Redinger, Superintendent
Dr. David Crump, Director, Student Services
Mr. Jeremy Ochse, Principal, Lewis and Clark High School

Appendix E:

Transcript of Student Discipline Appeal Hearing, 12-14-15, (CP 22-57)

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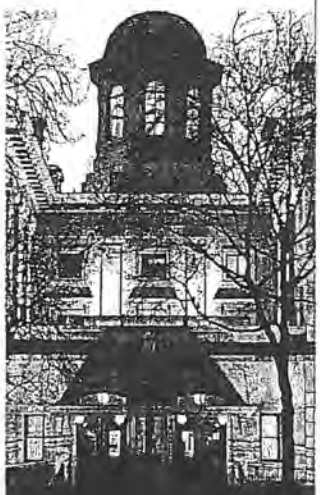

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SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY

MARIN, QUINCY
12/1/1996

Plaintiff

vs. No. 16-2-00466-5

SPOKANE PUBLIC SCHOOLS
NO. 81, a municipal corporation.

Defendant.

STUDENT DISCIPLINE APPEAL HEARING

BEFORE THE SPOKANE PUBLIC SCHOOLS
BOARD OF DIRECTORS

HELD ON
DECEMBER 14, 2015
SPOKANE PUBLIC SCHOOLS

ADMINISTRATION BUILDING
200 NORTH BERNARD STREET
SPOKANE, WASHINGTON 99201

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1 APPEARANCES
2
3 SPOKANE COUNTY SCHOOLS BOARD OF DIRECTORS:
4 Dr. Shelley Redinger, Superintendent
5 Deana Brower, President
6 Sue Chapin, Vice President
7 Jerrall Haynes, Member
8 Paul Schneider, Member
9
10 LEWIS & CLARK HIGH SCHOOL:
11 Jeremy Ochse, Principal
12 Dan Close, Assistant Principal
13
14 Appearing on behalf of the School District:
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1 APPEARANCES (Continued)
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3 Appearing on behalf of Quincy Marin:
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1 STUDENT DISCIPLINE APPEAL HEARING
2 BEFORE THE SPOKANE PUBLIC SCHOOLS
3 BOARD OF DIRECTORS
4 HELD ON
5 DECEMBER 14, 2015
6
7 MALE SPEAKER: December 14th and you're now live.
8 MS. BROWER: (Inaudible) forward, we are in a
9 (inaudible) session for the purpose of a quasi-judicial
10 hearing (inaudible) to (inaudible) appeal. We are
11 (inaudible) and have everyone introduce themselves. I will
12 start and then we'll circle around to my left.
13 I'm Deana Brower, School Board Director and
14 President of the School Board.
15 MR. SCHNEIDER: I'm Paul Schneider, School Board
16 Director.
17 MALE SPEAKER: (Inaudible.)
18 MALE SPEAKER: (Inaudible.)
19 MR. STEVENS: Greg Stevens, the School District's
20 attorney.
21 MR. CLOSE: Dan Close, Assistant Principal at
22 Lewis Clark.
23 MR. OPHARDT: I'm Dan Ophardt, attorney at True
24 Child representing Quincy Marin.
25 MR. MARIN: Quincy Marin, former student.

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1 DR. REDINGER: Shelley Redinger, Superintendent of
2 the School District.
3 MR. HAYNES: Jerrall Haynes, School Board member.
4 MS. CHAPIN: Sue Chapin, School Board member and
5 Vice President of the Board.
6 MS. BROWER: So the board meeting can begin by
7 conferring with the parties about the process of the
8 hearing. I understand the parties have a process they would
9 like to recommend.
10 MR. STEVENS: Mr. Ophardt, the attorney for the
11 student -- well, this is Greg Stevens speaking -- and I have
12 discussed the process and we're recommending to the Board
13 that he process be largely on the record, meaning that the
14 Board will have received and studied the transcript and the
15 exhibits at the hearing before the hearing officer. That
16 record will be supplemented by Mr. Ophardt being allowed to
17 show the video which occurred at the dance where the
18 incident -- or alleged incident in question occurred. Mr.
19 Ophardt will be allowed to comment during the video as will
20 Mr. Close.
21 Other than that, both sides, Mr. Close and Mr.
22 Ophardt, will be allowed to make summation or closing
23 arguments. Of course, the Board members can ask questions
24 at any time. When that is concluded, the appeal will be
25 concluded and the Board will convene in closed session.

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1 Is that accurate, Dan?
2 MR. OPHARDT: (Inaudible) two points that I want
3 to check on the process a little bit. The transcript of the
4 hearing (inaudible) started late on Friday. (Inaudible)
5 concluded speaker-wise (inaudible) not just missing
6 speakers, but there was a corrected copy just in the last
7 hour or so. I have not had a chance to verify that that is
8 (inaudible) correct. I, just looking at it now, know that
9 there are still some errors in it, but again, that's just
10 with the -- who the speaker is (inaudible).
11 We haven't come to an agreement as to what to do
12 about that. It would be my preference that there be no
13 decision made until a corrected copy is made.
14 FEMALE SPEAKER: Just a question. I have some
15 questions. Who produced this copy?
16 MR. OPHARDT: (Inaudible) School District.
17 FEMALE SPEAKER: Okay.
18 MR. OPHARDT: I could have made my own, but I did
19 not have a recording (inaudible).
20 FEMALE SPEAKER: Okay.
21 MR. OPHARDT: And so, for that reason, I can't
22 even verify the transcript is correct because I haven't been
23 given a recording of it (inaudible).
24 Secondly, I was told that the documents that
25 Quincy provided as part of the record for the hearing were

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1 given to the Board, and I wanted to confirm that.
2 MALE SPEAKER: Yes.
3 MR. OPHARDT: (Inaudible) like to just look at
4 what we're going to do about the transcript issue before we
5 proceed.
6 MR. STEVENS: Well, it would be my request or
7 recommendation that we try to correct any errors now,
8 whereas, we've been requiring the Board to meet again at
9 some later date.
10 So, Dan, it's -- I know Mr. Close has looked at it
11 also and (inaudible). I'm wondering if the two of you could
12 point out to the Board any remaining errors you see and the
13 Board members could make notes on their version.
14 MR. OPHARDT: Yeah, I -- I did phone -- or make
15 some changes on that (inaudible) some statements I was
16 making were attributed to him and vice versa. I think that
17 corrected those.
18 MR. STEVENS: It would be nice if we can get an
19 agreement between the whole part and you as to what those
20 corrections should be.
21 MR. OPHARDT: I just have a feeling that is going
22 to take a while. So we can start (inaudible).
23 MALE SPEAKER: (Inaudible). Okay. Back recording
24 with an extension cord.
25 MR. STEVENS: Mr. Ophardt, do you know -- I know

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1 you haven't had much time to review the new transcript. Are
2 you -- do you know, though, particular area that you think
3 are confusing or in error? I'm wondering, if so, if we
4 might allow yourself or Quincy to talk about those as a way
5 of clearing that up?
6 MR. OPHARDT: Well, I -- I actually think that it
7 is quite possible that the Board members will understand
8 who's talking by the context of the transcript, but I can't
9 completely be 100 percent sure of that. So I don't think at
10 this time I'm in a position to talk about what would be more
11 confusing. I haven't even had much time to review the whole
12 transcript with it, even the first version of the transcript
13 was only given to me Friday evening.
14 MR. STEVENS: I'm just trying to brainstorm a best
15 solution. So I'm just going to throw out some ideas and see
16 what people want to do.
17 What I might recommend is we move forward here
18 this afternoon, do the best we can with the transcript, the
19 Board deliberate. That we would then give, before the Board
20 renders a decision, we would give Mr. Ophardt an opportunity
21 and myself and Mr. Close to clarify who was speaking in the
22 transcript, provide that to the Board members. And then if
23 the Board members felt that that clarification altered their
24 opinion or was inconsistent, the Board could reconvene. If
25 not, then if the Board were to make a decision this

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1 afternoon, that decision would stand and would be
2 communicated to everyone.
3 MR. OPHARDT: Whatever the Board thinks is the
4 process they want for the hearing that -- (inaudible)
5 hearing.
6 MR. STEVENS: Well, we want to make sure that the
7 Board has a fair --
8 FEMALE SPEAKER: Mm-hmm. So I'm going to ask a
9 clarifying question.
10 How would the -- I'm curious about the question.
11 Was that a function of some document thing we (inaudible)?
12 (Inaudible) inaudible or unknown who is speaking. How is
13 that clarified?
14 MR. STEVENS: I think some of the inaudibles we
15 were not able to clarify. That was just a function --
16 FEMALE SPEAKER: (Inaudible) --
17 MR. STEVENS: -- of the poor recording.
18 Some of the others, I think that the lady that was
19 here that was making the recording with some help was then
20 able to identify the correct speaker. But apparently
21 there's still some confusion in that regard.
22 MR. OPHARDT: My understanding of how it was done
23 was Mr. Close (inaudible) the transcript (inaudible). I was
24 not asked before now to give my input. I have a very good
25 memory of the hearing and I think (inaudible).

10

1 FEMALE SPEAKER: I'd like to put Mr. Stevens
2 recommend – I think if we have questions as we go through
3 or during this process, we're all here. We're going to be
4 able to watch the video, hear from both sides what occurred.
5 And if we've got questions about the exact wording on the
6 transcript or who might be speaking, I think we can get
7 those resolved today. (Inaudible)?
8 FEMALE SPEAKER: I would agree. I think that we
9 can proceed and direct, as Director Chapin said, any
10 clarifying questions would be (inaudible). Thank you.
11 FEMALE SPEAKER: So we have a procedure. Does
12 that address the question?
13 MR. OPHARDT: Yes.
14 FEMALE SPEAKER: Okay. So, good. We have a
15 procedure in front of us. I would entertain a motion to
16 approve the process as described.
17 FEMALE SPEAKER: So moved.
18 FEMALE SPEAKER: Other – second?
19 MALE SPEAKER: (Inaudible.)
20 FEMALE SPEAKER: And (inaudible) say aye.
21 (Aye response.)
22 FEMALE SPEAKER: Any opposed?
23 Okay. We have our process and we can begin.
24 MR. STEVENS: Dan, do you want to start out with
25 the video?

11

1 MR. OPHARDT: Sure.
2 (Inaudible conversation occurring.)
3 MR. OPHARDT: Well, can we – I would probably
4 think the best way to start this is to take it to the
5 hearing transcript where both Quincy and Mr. Skidmore
6 (phonetic) talked about this video on page 21.
7 FEMALE SPEAKER: Okay.
8 MR. OPHARDT: Where it says "unknown" and then
9 Quincy starts narrating the video.
10 FEMALE SPEAKER: Okay.
11 MR. OPHARDT: So I think we should start there,
12 and if anyone has anything to say other than what comes
13 (inaudible).
14 MALE SPEAKER: Do you want to set up (inaudible)
15 where the video is and what time? Would that (inaudible)
16 difficult?
17 MR. OPHARDT: Where the video was (inaudible)
18 time.
19 MALE SPEAKER: (Inaudible.)
20 MR. OPHARDT: Mr. Skidmore –
21 MALE SPEAKER: Oh.
22 MR. CLOSE: Yes. You can see the time stamp up in
23 the upper left corner, 10:17, and it's 10:20 and eight
24 seconds. And that is in our – in the hallway, in our gym.
25 The wrestling room is to the right of those two garbage

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1 cans, which is where we have our shoe drop-off.
2 The dance is basically kind of a 45-degree angle
3 back behind Mr. Skidmore into the auxiliary gym. The front
4 steps you can see there in front of you, so a student will
5 come in. You can see the multi-colored banister. They will
6 come in, come up there, drop off their shoes, and the dance
7 is, like I said, kind of off Mr. Skidmore's left shoulder
8 there, in that area where (inaudible).
9 FEMALE SPEAKER: So it was towards the end of the
10 dance?
11 MR. CLOSE: Yes. The dance is over at 11.
12 And if you could pause.
13 I would point out, (inaudible) with pink paper in
14 her hands, that's Mrs. Meyer (phonetic). She was one of the
15 ones that gave testimony that – so she just came up.
16 MALE SPEAKER: So that says Quincy and Shane. Mr.
17 Skidmore. And those other girls right there were involved.
18 MR. CLOSE: And if you'd pause it again, Dave.
19 In the white there, that's Jennifer Westfall
20 (phonetic). She was also one of our people that gave
21 testimony.
22 MALE SPEAKER: (Inaudible.)
23 MR. CLOSE: Uh – well, no. I just said
24 (inaudible).
25 FEMALE SPEAKER: Is that a parent or another staff

13

1 member?
2 MR. CLOSE: He is the photographer that was
3 working the dance.
4 FEMALE SPEAKER: Oh, okay.
5 MALE SPEAKER: (Inaudible.)
6 FEMALE SPEAKER: Okay.
7 MALE SPEAKER: (Inaudible) Mr. Skidmore and Quincy
8 walking out of the building.
9 FEMALE SPEAKER: Where?
10 MALE SPEAKER: So (inaudible).
11 FEMALE SPEAKER: Can you back up?
12 MALE SPEAKER: (Inaudible.)
13 MALE SPEAKER: (Inaudible.)
14 MALE SPEAKER: Oh, by Mrs. Meyer.
15 MR. CLOSE: There's Mr. Skidmore and there's
16 Quincy. There's Mrs. Meyer.
17 MALE SPEAKER: That's the girl who (inaudible)?
18 MALE SPEAKER: What?
19 MALE SPEAKER: Can you go a little bit back,
20 please?
21 MALE SPEAKER: (Inaudible.)
22 (Inaudible conversation occurring.)
23 MR. CLOSE: There's Taylor and then Quincy coming
24 back. Mr. Skidmore.
25 MALE SPEAKER: Okay.

14

1 FEMALE SPEAKER: (Inaudible) --
2 (Inaudible conversation occurring.)
3 MALE SPEAKER: She's right there, you know.
4 MALE SPEAKER: What's (inaudible)?
5 MALE SPEAKER: She -- her hand is right there in
6 the corner.
7 MALE SPEAKER: (Inaudible) the boy with that
8 (inaudible)?
9 MALE SPEAKER: Yes, (inaudible). That's a
10 (inaudible), yes. (Inaudible). The doors we were closing
11 picked up. That's like a whole group of the girls who
12 (inaudible)
13 MR. CLOSE: Okay. Dave, you could pause it.
14 Those are the girls there and you will see Mr.
15 Bazille (phonetic) escort them down towards the staircase
16 and out. He's kind of behind that one -- one girl there.
17 He's -- I believe that's his arm close to the girl in the
18 red.
19 MALE SPEAKER: Is that a different girl than what
20 was just pointed out?
21 MALE SPEAKER: It is.
22 FEMALE SPEAKER: Mm-hmm.
23 MALE SPEAKER: The one that was just pointed out
24 down here in the corner, correct?
25 MALE SPEAKER: Right.

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1 MR. CLOSE: There's Mr. Skidmore escorting them
2 out.
3 MALE SPEAKER: She was never escorted.
4 MR. CLOSE: Okay.
5 MALE SPEAKER: No.
6 MR. CLOSE: Okay.
7 MALE SPEAKER: She was asked to leave just like
8 (inaudible).
9 MR. CLOSE: Okay.
10 MALE SPEAKER: Yeah.
11 FEMALE SPEAKER: (Inaudible)
12 MALE SPEAKER: Correct. And that's like a whole
13 group of girls in the corner just fighting.
14 MR.CLOSE: Can you pause it for a second?
15 So at the very beginning when you saw me just kind
16 of hanging out up here, it had been going on for a few
17 seconds below out of screen. So the part that you saw were
18 like in the first 30 seconds of it, and that led to me
19 telling all (inaudible) parties to leave. That was just a
20 (inaudible). The only part that was caught off camera.
21 (Inaudible) clarify that.
22 MALE SPEAKER: Was this -- was this group asked to
23 leave?
24 MALE SPEAKER: No.
25 MALE SPEAKER: (Inaudible?)

16

1 MALE SPEAKER: No.
2 MR. MARIN: Yeah, but let me clarify this. This
3 is the group who -- because I was obviously part of the
4 whole thing. Just that whole group right there, except that
5 girl in the black, she's the one who didn't try to fight me
6 yet.
7 FEMALE SPEAKER: (Inaudible) --
8 MR. MARIN: All of those -- all of the -- all of
9 the --
10 MALE SPEAKER: So the two girls that were asked to
11 leave were also a part of it?
12 MR. MARIN: That girl right there in the blue,
13 right there, next to the girl in the black dress, her name
14 is Odonis (phonetic) and that's the one who -- who
15 threatened me pretty much and got in my face and tried
16 pushing and shoving me on the dance floor. And all of the
17 girls were just (inaudible) and stuff like that, trying to
18 fight me.
19 Now, when she -- what -- what was on the screen --
20 okay. So in the (inaudible) of everything -- like, you
21 don't see all of that, though. Like, you don't see the --
22 everything happened in one area and then they kind of left
23 (inaudible) and they kind of backed off after a while where
24 they were, like, okay, this is the -- basically, they got to
25 a point where they didn't escalate it any further, so that

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1 way, like, they're not getting in trouble or something, you
2 know. So they just kind of -- okay.
3 (Inaudible) tried to fight me and then, I don't
4 know, like the girl in the red dress was the one who was --
5 I don't know. She was, like, high off of something and she
6 was kind of more -- more edge on than the rest of -- they
7 kind of backed off because my -- one of my women was
8 Christine (phonetic) and she kind of talked to them. So
9 they kind of mellowed out. I think they know (inaudible).
10 FEMALE SPEAKER: Okay. Just to clarify and --
11 what I recall from the transcript, the argument or the
12 pushing, hand to the face, that happened on the dance floor.
13 MR. MARIN: The dance floor.
14 FEMALE SPEAKER: And that was observable by
15 administration, right? There's a lot of people on the dance
16 floor dancing. I've got to imagine, you know --
17 MR. MARIN: Yeah.
18 FEMALE SPEAKER: -- (inaudible) --
19 MR. MARIN: Where these (inaudible) was kind of
20 like -- it was like they're nuts, (inaudible).
21 FEMALE SPEAKER: Right.
22 MR. MARIN: Yeah.
23 FEMALE SPEAKER: And with the two other girls, you
24 had walked off (inaudible) or (inaudible). They came out
25 and those other two girls were the ones that you were

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1 engaged with. (Inaudible) the three of you were engaged in
2 an argument. And that's the -- that just responding to
3 (inaudible)?
4 MR. MARIN: Well, my -- that group -- because I
5 remember Odonis, like, clearly like, you know, like face to
6 face. She's the one who kind of -- she's the one who kind
7 of, quote, like threw the first --
8 FEMALE SPEAKER: In the hall? She was one that
9 just --
10 MR. MARIN: Yes.
11 FEMALE SPEAKER: -- threw it in the hall?
12 MR. MARIN: Yeah. Because she was telling me, "You
13 can go." She was like, "You can go." And then she started
14 cussing me out and stuff like that, telling me she was going
15 to beat my ass. So she's the one who --
16 FEMALE SPEAKER: Okay.
17 MR. MARIN: And then that's when -- you know, like
18 I have (inaudible) for (inaudible)?
19 FEMALE SPEAKER: Mm-hmm.
20 MR. MARIN: She's one of the (inaudible).
21 Christine Taylor. That's (inaudible).
22 FEMALE SPEAKER: Okay.
23 MALE SPEAKER: (Inaudible)?
24 MR. MARIN: No. That was there.
25 MR. CLOSE: Hey, Dave, could you pause it?

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1 When the resource officers went downstairs, we can
2 maybe back up and -- or just take my word for it. It was at
3 10:26.
4 FEMALE SPEAKER: Mm-hmm.
5 MR. CLOSE: So they were downstairs talking with
6 Quincy and everybody and then they escorted them back up
7 here at 10:38.
8 FEMALE SPEAKER: For what purpose? To find shoes?
9 Was that it?
10 MR. CLOSE: Yeah, something --
11 MR. MARIN: She was -- she was under the influence
12 and I told her several times to go and get her shoes. Now,
13 I didn't take her to the Homecoming.
14 FEMALE SPEAKER: Okay.
15 MR. MARIN: Her parent or whoever dropped her off.
16 And so she came underneath the influence and it wasn't my --
17 FEMALE SPEAKER: So you kind of backed into
18 together her associates.
19 MR. MARIN: Yeah, because she said she didn't have
20 a ride home, so, you know, I knew I had to go, so I was
21 telling her to hurry up because I knew I was -- how much
22 trouble (inaudible).
23 FEMALE SPEAKER: Mm-hmm.
24 MR. CLOSE: Here's Officer Peepin (phonetic) going
25 into the dance to find the girl.

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1 See, and Quincy's waiting with Officer DeCarr
2 (phonetic), who was on the right side there. He'll come
3 into view here in a second.
4 MALE SPEAKER: So that's the resource officer just
5 standing --
6 MR. CLOSE: On my left.
7 MALE SPEAKER: (Inaudible.)
8 MR. CLOSE: And Quincy goes into the dance hall
9 and Officer DeCarr --
10 MR. MARIN: Yeah. Yeah, they -- I didn't just --
11 just up and walk --
12 MALE SPEAKER: (Inaudible) were you called into
13 the dance?
14 MR. MARIN: No. I (inaudible) go in there until
15 he said okay, because I was pretty much explaining to him,
16 you know, (inaudible). But I wouldn't just up and, you
17 know, just walk, walk (inaudible).
18 That --
19 MALE SPEAKER: Okay.
20 MR. MARIN: Well, anyways, that -- that girl was
21 just walking by in that pink dress. Kay, Kay didn't arrive
22 until, like, later on anyways and she came, like, under the
23 influence. But that's the girl who I was mainly, you know,
24 dancing with. But we weren't harassing anybody else.
25 That girl who just walked in there, I remember her

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1 telling me about watching out for (inaudible).
2 MR. CLOSE: Ms. White and Mr. Skidmore come back
3 up through the door.
4 FEMALE SPEAKER: You've been in the gym for how
5 long now? I didn't see the time that -- 10 minutes?
6 MR. CLOSE: Not quite. (Inaudible.)
7 FEMALE SPEAKER: I didn't see the time
8 (inaudible).
9 MR. CLOSE: We're probably -- it was probably
10 about five minutes now or something.
11 FEMALE SPEAKER: Okay.
12 MR. MARIN: Well, it wasn't, you know -- let me
13 add this. I was in there for a while, but it was mainly for
14 (inaudible) her getting her shoes. No altercations or
15 anything.
16 FEMALE SPEAKER: Okay.
17 MR. MARIN: (Inaudible) no back and forth talk or
18 anything like that.
19 FEMALE SPEAKER: Were you with the officer the
20 entire time?
21 MR. MARIN: Yes. Yeah. It was the -- she was
22 inside of the (inaudible) -- there she -- can we kind of go
23 back and forth in time because she's showing body language
24 for being kind of out of it.
25 MALE SPEAKER: What's the plan -- in other words,

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1 (inaudible) school (inaudible) –
2 MALE SPEAKER: (Inaudible) first dance
3 (inaudible). Thank you.
4 MALE SPEAKER: I want to hear what they have to
5 say. (Inaudible) so that way I don't – so that way he
6 (inaudible) we can have rebuttal with it.
7 MR. OPHARDT: So on the three-hour hearing that
8 you have a transcript of, we heard many things (inaudible)
9 school (inaudible) Quincy was the night of Homecoming. They
10 said he was noncompliant, argumentative, upset, angry,
11 elevated, swearing a lot, puffing his chest, and that he
12 threatened to go to the School Board (inaudible).
13 What we never heard in that entire 41 pages of
14 transcript and in that three hours, and still haven't heard
15 today, is an articulation of a threat of violence that
16 Quincy made to staff. The only threat we heard was that Mr.
17 Skidmore would be sorry he pushed him and that he was going
18 to go to the School Board.
19 Indeed, there was no threat of violence, nor
20 anyone who said there was one. We saw a long video in the
21 hearing and today. There was no violence in the video and
22 no accusations of violence.
23 We saw resource officers come and stand there with
24 Quincy for a while. No handcuffs. Never pressing charges.
25 And those resource officers weren't asked by the school to

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1 be witnesses, despite being there that whole time. I would
2 offer that they didn't see anything, they didn't hear any
3 threat, and that's why they weren't asked to (inaudible).
4 Supposedly there was a pretty serious and –
5 though unarticulated threat that warranted a year's
6 exclusion from school and then by the hearing officer still
7 upholds the measure of exclusion of school. But we have
8 still no articulation of that threat.
9 So based on what we have heard evidence of what
10 Quincy did, that noncompliance, that argumentative
11 (inaudible), that swearing, in Spokane Public Schools' new
12 Discipline 32-3 Procedure, none of these things that Quincy
13 – that school staff said Quincy did would be eligible for
14 any suspension. Of all that conduct provided, I would not
15 (inaudible) misconduct.
16 Further, even under the former Procedure 3200,
17 still in place at the time of Quincy's expulsion, also would
18 not have permitted a long-term suspension or support
19 expulsion. As well, there was wide discretion in that
20 policy, long-term suspensions and expulsions require a prior
21 intervention to be tried before long-term suspensions and
22 expulsions.
23 As we heard evidence of in the hearing and you
24 have documentary evidence of, there was no prior
25 intervention for any behavior for Quincy, either in Lewis &

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1 Clark or in his former school district in Fresno,
2 California.
3 So (inaudible) neither the old nor new Spokane
4 Public Schools' procedures permitted a long-term suspension
5 for Quincy, he is now missed 31 school days for this
6 incident and it would have been even more if not for the
7 storm closure.
8 Now, a word I didn't use enough in the hearing and
9 in your transcript is discrimination. For Quincy to have
10 already missed 31 school days on an expulsion when there is
11 no policy permitting that, when the girls involved in the
12 same altercation were not suspended, though the school
13 admitted they were also aggressive, angry, argumentative,
14 noncompliant and swearing a lot, when Quincy provided
15 testimony of his experience and feeling that he was not
16 welcome in Lewis & Clark from the very moment he stepped in
17 there, this expulsion is discrimination.
18 I can't read the minds of the Lewis & Clark
19 administrators. I don't know why they discriminated against
20 Quincy or whether they did it with intention. I do know,
21 however, that they singled out a student of color, a
22 homeless student of color, an unaccompanied homeless student
23 of color, who is credit deficient, very credit deficient and
24 can hurt their graduation statistics.
25 But that was no reason, certainly no legal reason

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1 to expel Quincy from school. Indeed, it was all the more
2 reason to reach out a helping hand to Quincy and do the job
3 these administrators are supposed to do with public money,
4 and that is to assist in the education and success of our
5 young people. Instead, these administrators chose to
6 illegally expel Quincy and wipe their hands of him. If that
7 is not discrimination, I don't know what is.
8 Thank you.
9 MALE SPEAKER: Okay. (Inaudible) go next.
10 Lewis & Clark issued an emergency expulsion to
11 Quincy Marin because of threats made to staff and his
12 behavior and actions at the Homecoming dance October 17th,
13 2015. After conducting an investigation into the incident,
14 the emergency expulsion was then converted to an expulsion.
15 The expulsion was subsequently converted to a long-term
16 suspension by the hearing officer following the request for
17 hearing from Quincy.
18 Quincy also had a meeting with Dr. Crum (phonetic)
19 to discuss his options in regards to discipline and his
20 educational program. Earlier efforts had been made at Lewis
21 & Clark to check into an accelerated program to catch Quincy
22 up on credits. Dr. Crum confirmed that idea and helped
23 (inaudible) intake meeting at Open Doors and Gateway.
24 Lewis & Clark cares about students. We care about
25 their safety and their success. It is not our practice to

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1 expel or long-term suspend a student for a single outburst
2 or swearing at staff. We don't do that. We would seek an
3 expulsion or long-term suspension in the event that the
4 staff member was threatened, and such is the case as stated
5 by Mr. Skidmore's testimony and also corroborating by Mrs.
6 Litey (phonetic) and the two resource officers.
7 While some of the events of the night are captured
8 on video, the most egregious ones were either off camera or
9 outside, and those statements and testimony will be
10 corroborated by witnesses of the occurrence.
11 The initial incident between Quincy and the girls,
12 while upsetting and disrupting, did not result in
13 (inaudible) expulsion. Okay? The discipline at that point
14 was that all students were told to leave. Okay? The girls
15 complied and left, Quincy did not.
16 As was noted in the audio and transcript of the
17 hearing, and verified by the witnesses, not only did he not
18 comply, he became argumentative, would not follow direction,
19 directed profanity towards Mr. Skidmore, refused to leave,
20 postured and made threatening gestures towards Mr. Skidmore.
21 Mr. Skidmore felt threatened. Quincy admits to
22 swearing at him and saying something about putting hands on
23 him. Mr. Skidmore felt most alarmed by the "see what
24 happens next time" threat. That statement, along with the
25 ongoing profanity, the gesturing, the posturing, coupled

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1 with the demonstrated refusal to comply with any staff
2 directions or leave as directed, made Mr. Skidmore feel that
3 he was threatened.
4 According to Ms. Meyer, Quincy himself stated that
5 he wasn't in his right mind. He also stated that, "I was
6 two different people," and, "I can't even give you a good
7 example because I can't even think back to it because I was
8 just so worked up."
9 Quincy acknowledged that when he was escorted back
10 into the dance by the resource officer to find his date, he
11 was to remain outside the dance with one officer while the
12 other one went in to retrieve her. Yet he can be seen
13 leaving the officer and bolting into the dance and then
14 pursued by the officer. This is an example of the
15 noncompliance or refusing to follow adult directions that
16 occurred.
17 You know, a further illustration of that is the --
18 when Mr. Skidmore intervened on the tape, it was at 10:20.
19 By the time all this has gone back and forth, it was 10:43
20 before Quincy was finally escorted out. And then, that's
21 where the major incident occurred. So for 22 minutes, he
22 was still in the process of leaving.
23 This was a very troubling event, given the
24 testimony of the witnesses as to what -- how serious it was.
25 Lewis & Clark is confident in the discipline applied and we

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1 stand by that.
2 FEMALE SPEAKER: You will have 10 minutes to
3 respond.
4 MR. STEVENS: I have a very brief rebuttal, or
5 certainly if the Board members have any questions.
6 FEMALE SPEAKER: Okay. (Inaudible) --
7 MR. MARIN: Well, first of all, I'd like to say a
8 lot of the things that Mr. Close is saying, that is untrue.
9 A lot of, like, the stuff that he said in the last hearing
10 is untrue.
11 For example, me starting to enroll with Lewis &
12 Clark. They gave me a hard time. I felt discriminated even
13 back then. And then I just, you know, just I was so eager
14 to get into school, so I, you know -- you know, just tried
15 to just brush it off my shoulders.
16 The fact that he said that they had to printout an
17 enrollment packet for me was extremely false. They -- they
18 denied me an enrollment packet time after time after time
19 that I asked them for one. And then for him to say that
20 they -- that they proceeded to print me one out -- which is
21 false. They had them; they just didn't want to give me
22 them.
23 When I got help from a third-party source, which
24 was Deb Miller (phonetic), and I had her get on the phone,
25 they gave me an enrollment packet that was, like,

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1 professional. You know, it was in a portfolio, you know.
2 They have this stuff. They just didn't want to give it to
3 me at all. They made me feel, you know, unwelcome at that
4 point.
5 So leading up until Homecoming, I already knew
6 what I was up against. A lot of the -- I knew how to act,
7 like he mentioned (inaudible) about me not -- me saying that
8 I'm not myself and that I don't even know how to explain how
9 I was acting because I was out of it or some stuff, I forgot
10 (inaudible) -- to me, that's the part of me saying -- the
11 part of me explaining to somebody that I don't want to talk
12 to them and that I'm not myself right now is a lot of self-
13 control.
14 Even if I did take it that far, I just want to say
15 that -- he's saying that he felt threatened by something
16 that I said, but, you know, going back from the first
17 hearing that we had, he failed to mention anything about me
18 saying anything about the School Board. So I was just kind
19 of wondering when he was going to mention that. It seem
20 like everything that he -- that he -- he worded his words in
21 a correctly manner of his -- of his power basically to try
22 and (inaudible) this whole situation.
23 So for him to say that they care about their
24 students and stuff like that, that's false. And that's
25 pretty much why I'm in the position that I am in right now,

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1 because as you -- as you guys could see on this video, I was
2 not beating on my chest like a gorilla or I was not doing
3 any of that. Have they tried to say that I was, you know
4 what I'm saying? They profiling me.
5 And they expelled me before they even got my
6 statement. You know, he said that he wasn't part of the
7 investigation, but he was. He wrote out a statement and
8 signed it, and I believe that was before they -- well, that
9 was after he expelled me -- no, before.
10 Well -- okay. So I'm just -- I have a lot to say
11 right now --
12 FEMALE SPEAKER: It's okay.
13 MR. MARIN: -- so bear with me.
14 Basically, he knew what he was doing. He told me
15 what he was doing the night of Homecoming. He told me that
16 I was expelled. He didn't even -- I didn't even know what a
17 suspended/expulsion was. All I knew is I was just expelled.
18 Yeah, he told me not to come to school that Monday. He knew
19 he was doing -- they had papers waiting on me (inaudible) --
20 FEMALE SPEAKER: You said "he". Just to clarify,
21 you mean Mr. Skidmore?
22 MR. MARIN: Mr. Skidmore is behind the whole thing
23 and they backed him up (inaudible) all that. You know, he's
24 talked to the students about me. He was explaining to one
25 of the students about how, you know -- I think this is

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1 violating my rights because he said something to about, "I'm
2 not your parent, but watch yourself around him because he
3 might abuse you. Don't get in his car." And he was
4 referring to me like I would rape them or something like
5 that. And they told me all of this.
6 All of this started with a group of students, you
7 know, a kid named T.J. that I don't even know, you know, and
8 then a group of girls, you know. And then it turned into me
9 and Mr. Skidmore, you know. When I -- when I tried to
10 enroll in the school, it was me and Mr. Skidmore. Whenever
11 there's a problem, it's me and Mr. Skidmore. I don't
12 understand why --
13 Okay. It seem like other people could have
14 intervened in this whole thing, especially if they already
15 knew there was kind of like some tension between him and I,
16 because, you know, I'm pretty sure they knew. You know,
17 it's not rocket science. You know, I -- to be honest, I
18 didn't want anything to do with him because of the way he
19 treated me at enrollment.
20 So, you know, I really think someone else could
21 have intervened. I just think that, you know -- and I heard
22 him telling one of them that he got it. Like, you know,
23 like let him handle it. And, sure enough, he handled it.
24 And even though on camera, you know, it's saying
25 that I took so long for me to leave. I took that long

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1 because I was trying to make sure Kay had a ride home. She
2 was drunk, you know. I didn't bring her there, but I was
3 willing to drop her off at home. Now, the part about Swaxx,
4 you know, she's 14 years old. But those girls were still
5 there, you know.
6 FEMALE SPEAKER: Can you --
7 FEMALE SPEAKER: What's Swaxx?
8 MR. MARIN: Swaxx is a nightclub.
9 (Inaudible conversation occurring.)
10 MR. MARIN: She's 14 years old. The only reason
11 why I went to Homecoming was because I knew that she liked
12 me. When I was at Lewis & Clark, a lot of the girls there
13 liked me, but they're very young. I know how old I am, you
14 know. When she asked me out driving down Division, I told
15 her no, you know. And then I called her back that night,
16 you know, and we -- eventually, we met up there.
17 But, yeah, so he -- I noticed him watching me that
18 night. He -- I was walking to go and get some water because
19 I was tired and hot from dancing, and he was following me.
20 And I turned around, and then he asked me if I was lost.
21 And then, you know, the water fountain's right there, you
22 know. That type of harassment and that type of discomfort,
23 you know.
24 You guys don't love your students. You know, you
25 guys don't care about your students. They had a backup plan

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1 for me. Like right now, the school that I'm -- like at Open
2 Doors, that's not even -- that's for if you're trying to go
3 and get your GED. That doesn't help you make up on your
4 credits. That helps you get a GED, you know. And there's a
5 lot of -- a lot of faulty things with it and -- and I'll
6 just leave it at that.
7 MR. OPHARDT: So (inaudible) I think it's
8 important for Quincy to be able to tell you all that he did
9 (inaudible).
10 I do want to refocus on the fact that there was no
11 articulated threat. That the treat on page 11 explained by
12 Ms. Litey that Quincy said, "I'm going to the School Board.
13 I do not like how you put your hands on me. And if you ever
14 come near me again, you'll regret it," but that is the
15 (inaudible) we've heard (inaudible) Skidmore to -- felt
16 threatened by gestures and aggressiveness and swearing of
17 Quincy is not any legal reason to expel a student for a year
18 or even long-term suspend him for the rest of this semester.
19 MR. STEVENS: (Inaudible) I would like to have --
20 I would first direct you to page 32, the bottom of the page
21 and then go on to the top of page 33, that's where Mr.
22 Skidmore told them -- this was outside, which is where the
23 main confrontation, off camera or out of camera, occurred
24 afterwards, and this is where Mr. Skidmore said: "You're not
25 welcome back here Monday. You're not to contact school or

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1 come to school. You're emergency expelled." That's when he
2 turned around and did get in my face, "Touch me again and
3 see what happens." So I said, okay, that's it and I took --
4 place outside (inaudible) 30 seconds and it didn't take that
5 long for him to leave.
6 But I would have you turn back to page 10. Mrs.
7 Litey was present when that occurred between Quincy and Mr.
8 Skidmore. And in the middle of the page there, Mrs. Litey
9 says: Quincy left the building. He was sort of swearing,
10 very upset and angry. All this anger was directed towards
11 Mr. Skidmore. He was very aggressive, very elevated. He
12 was swearing all the way out of the wrestling room, darting
13 into the street. Then it's inaudible. He started swearing
14 at Mr. Skidmore and he's yelling at Mr. Skidmore to hear,
15 "Put your hands on me again. You'll regret what happens."
16 She was asked: Did you see Mr. Skidmore push or
17 shove -- shove him? Tracy said: No. In fact, I saw Quincy
18 turn around, get directly in Mr. Skidmore's face, and he
19 postured and swore at him, calling him a effing A-hole and a
20 MF.
21 And then: How far away's that? Tracy said: He
22 was right almost to the chest.
23 MR. OPHARDT: Reversible (inaudible) rebuttal.
24 MALE SPEAKER: Wait a minute. I'm not sure Mr.
25 Close is done. Are you, Dan?

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1 MR. OPHARDT: Again, then I have a right to
2 rebuttal (inaudible).
3 MR. STEVENS: You don't want to talk at all about
4 the issue of when Quincy tried to enroll (inaudible)?
5 MR. CLOSE: Sure, I can.
6 MR. STEVENS: (Inaudible) issue the Board would
7 like to see addressed.
8 MR. CLOSE: Yeah, I think that -- Quincy showed up
9 to enroll. He went to the student office. He'd previously
10 been at North Central and they said since he was at the
11 House of Charity, that we were his attendance area, which is
12 -- that would be the case if he's there. Went to the
13 student off and we did not have an enrollment packet put
14 together. He became argumentative with the substitute
15 secretary that was there. She's a substitute. She doesn't
16 know where anything is. Plus, we -- we didn't have it at
17 that time.
18 And that's when Mr. Skidmore, who is in that same
19 office, came out -- heard the commotion, came out, said,
20 "What's going on?" Tried to talk to him. Mr. Skidmore then
21 brought him down to my office with Mr. Elzie (phonetic) and
22 Quincy was, you know, saying essentially, "I need to get in
23 school. I need to get in school right now." You know,
24 we're saying, "Well, yeah, we can work on that. We don't
25 have any of your transcripts and we don't know anything

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1 about you." Said, "Our normal practice is you make an
2 appointment, we get your stuff so that we can build a
3 Schedule 40." He did not seem to, you know, comprehend what
4 our process was or what needed to be done, and he was very
5 insistent.
6 Furthermore, his counselor who would be
7 registering him, Lisa Renner (phonetic) was out that week.
8 This was on a Thursday or Friday, I believe. She was out.
9 He did leave. I think he made contact with Sarah
10 Miller. In the interim, when he came back in, we had put
11 together a packet and I personally called the principal down
12 at his previous school and had him fax up his grades that
13 day, which normally that's not the case. It's usually
14 there's a, you know, lag time between when we get it and
15 (inaudible). But I called down and talked to the principal
16 himself and said fax those -- fax those up.
17 And so we did try to start to build a schedule.
18 Again, his counselor wasn't here, wasn't able to do that.
19 Part of the problem of getting him a schedule was he claimed
20 that he had some of these credits that were coming and so we
21 built a schedule based on that, you know, that these credits
22 were expected. They did not come through. They apparently
23 weren't going to grant him those credits, which, you know,
24 causes us to look at some other option.
25 We, you know, we put him in as many classes as we

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1 could so that -- because he is behind on where he needs to
2 be for graduation and we were trying to accelerate that.
3 But like I said, the credits that he said were coming from
4 Fresno did not materialize, so we just had him down for the
5 13 credits that he -- you know, that we were able to get
6 from the transcript that I ordered.
7 FEMALE SPEAKER: Just to clarify, who -- so once
8 enrolled and the paperwork comes through, he's enrolled, was
9 Quincy taking a full -- full schedule at LC?
10 MR. CLOSE: Yes.
11 FEMALE SPEAKER: So even with the (inaudible) the
12 transcript information, there was (inaudible) courses
13 (inaudible) to (inaudible) graduation (inaudible) --
14 MR. CLOSE: Sure.
15 FEMALE SPEAKER: -- (inaudible)?
16 MR. CLOSE: Yeah. Yeah. We -- he was enrolled in
17 seven classes, which is an already full schedule, more than
18 a full schedule.
19 FEMALE SPEAKER: Okay.
20 MALE SPEAKER: Any discipline in those classes?
21 MR. CLOSE: No.
22 MALE SPEAKER: Okay. So he's never been --
23 demonstrated any kind of problems inside of the classroom?
24 MR. CLOSE: No, not that I --
25 MALE SPEAKER: Well, there's --

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1 MR. CLOSE: Not that I'm aware of. You know, part
2 of that, you know, his attendance was spotty, to say the
3 best, and so that, you know --
4 MALE SPEAKER: I do have one more question about
5 that first interaction.
6 Quincy said, and I'm referencing page 13 here,
7 when he was first pulled into Mr. Skidmore's office -- I
8 would like to know if Mr. Skidmore did ask him was there
9 something about his appearance and that you -- you
10 definitely went through the process by which you guys dealt
11 with the enrollment forms and that.
12 I'm curious about this notation here where he
13 says, oh, gosh, right in the middle of the page: I
14 explained what I was there for, who I was, who I was there
15 to speak to because I already had instruction what to do,
16 and the first thing he did was comment on my appearance and
17 that was basically profiling. He said you're coming in here
18 with the herd and nothing good happens.
19 Would that --
20 MALE SPEAKER: I never said that.
21 MALE SPEAKER: You never said that?
22 MR. MARIN: Yes, you did. Yes, you did.
23 MALE SPEAKER: I never (inaudible).
24 MALE SPEAKER: Okay.
25 MR. MARIN: And I can tell you what I had on.

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1 And, you know, I had a fever that day, just like I have
2 today. I kind of look rough. I had these boots on and then
3 I had some stonewashed jeans and then had on a parka, a
4 green parka with the hood on, you know. And he commented on
5 that.
6 He actually said that I was stopped by some random
7 people and I told him no, you know, I know what I came for
8 and I was trying to talk to him and get the enrollment, you
9 know, going. But he just, you know, gave me the hardest
10 time and it ended up with him, you know, connecting me with
11 Mr. Elzie and him, when all they really needed to do was
12 just give me an enrollment packet.
13 MALE SPEAKER: December 14th. Tape two.
14 FEMALE SPEAKER: (Inaudible) that morning you went
15 in -- the day you went into LC, were you -- I see that you
16 had a hard time finding the office.
17 MR. MARIN: Well, that was outside of the school.
18 That wasn't inside.
19 FEMALE SPEAKER: Once inside, were you directly in
20 the public office?
21 MR. MARIN: Yeah. See, everything is like, you
22 know, like, it's common sense, you know. You would know
23 where to do go then. So I eventually made -- because, you
24 know, I'm from California. The schools are way different,
25 you know. This school has, like, two separate buildings. I

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1 ended up on the other side thinking that was -- but it was
2 really on the other side.
3 FEMALE SPEAKER: Yeah.
4 MR. MARIN: So when I went in there, I pretty much
5 knew what I needed to do because (inaudible) school at North
6 Central.
7 FEMALE SPEAKER: I have a couple of questions.
8 And on page 10, Mrs. Litey quotes some language that she
9 says you used towards Mr. Skidmore. Pardon my language, but
10 "fucking asshole" and "motherfucker". Did you say those
11 words?
12 MR. MARIN: First -- first of all, I don't cuss
13 like that.
14 FEMALE SPEAKER: I'm just asking. Did you say
15 that -- did you say that to Mr. Skidmore?
16 MR. MARIN: No. I pretty much said something in
17 that category, but not in that style of language. I'm
18 pretty sure I said, you know, "Get your hands off me," or,
19 "Get the fuck off me," something like that, you know, or,
20 "Don't fucking touch me." You know, something like that.
21 But I do remember saying get these -- get this off
22 me, but, you know, I cuss like that. But never like, oh,
23 like, "effing asshole" or "you asshole, this and that," or
24 "motherfucker". I don't even talk like that, so --
25 FEMALE SPEAKER: Okay. And then on page 11, it

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1 says -- it sounds like you have -- you're telling him not to
2 put -- that, "Don't put your hands on me." Did Mr. Skidmore
3 at any time (inaudible) Mr. Skidmore put his hands on you or
4 if that occurred?
5 MR. MARIN: Mr. Skidmore was more focused on me
6 than he was on the girl that -- that girl that tried
7 (inaudible).
8 Now, he did try to get in between, but he was more
9 focused on me. Now, I'm a big person (inaudible), so do you
10 think I'm going to let him intimidate me? No, because I
11 wasn't worried about none of it. So when he put his hands
12 on me, all I did was say, "Get your fucking hands off me,"
13 because I already know -- like, I know better. I know the
14 (inaudible) and not even to push at that because I could be
15 in jail right now. So I tried not to do anything
16 threatening and I let him do what he needed to do and that's
17 how things went smoothly, you know.
18 He -- he pushed himself (inaudible) he did. He,
19 you know, like pushed me back, shoved me back. He was also
20 pushing and shoving them also, but it -- it just seemed like
21 his attention was more towards me, even though that I wasn't
22 the one that was, you know, (inaudible) out and, you know,
23 and -- it was a broken fight. It was really them.
24 So really I kind of would have thought, like, he
25 would just say, like, "Walk away," because I was moving away

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1 and stuff like that. But it seemed, like I said, his
2 attention was more focused on me and he was still allowing -
3 - allowing that to go, you know.
4 MALE SPEAKER: Quick question. I broke up fights
5 when I was in school.
6 MR. MARIN: Well, he (inaudible) the middle,
7 (inaudible) --
8 MALE SPEAKER: I broke up a lot of fights, too,
9 and I know what --
10 MR. MARIN: I could have broken that fight -- I
11 could have broken that fight up without (inaudible). So,
12 you know, it's --
13 FEMALE SPEAKER: Okay. Just to clarify, so what
14 we're really wanting to understand is (inaudible).
15 MR. MARIN: Yeah. I'm --
16 FEMALE SPEAKER: Those are --
17 MR. MARIN: I'm -- I have a fever. It --
18 FEMALE SPEAKER: Okay. Do you want to take a
19 minute?
20 MR. MARIN: No, I'm okay.
21 FEMALE SPEAKER: Okay. And help yourself to some
22 water.
23 So the part where -- I think, to clarify, what
24 your response was, "You put your hands on me again,"
25 (inaudible) of being upset. So what I'm trying to

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1 understand is that during (inaudible) -- the situation where
2 Mr. -- where Mr. Skidmore might have put his hands on you.
3 So was it at the water fountain confrontation with the girl
4 when (inaudible)?
5 MR. MARIN: No. He put his hands -- he put his
6 hands on me in (inaudible).
7 FEMALE SPEAKER: That would be outside the
8 wrestling room?
9 MR. MARIN: Yeah. Well, outside the dance area
10 (inaudible) --
11 FEMALE SPEAKER: Well, was it at the point where
12 you came out to get water and the girls were there and you
13 were -- they -- the argument sort of escalated with the
14 girls? Is that when that happened?
15 MR. MARIN: I actually was going to go outside of
16 the cave to get some fresh air because everything was so
17 heated. You know, everybody kept coming up to me, telling
18 me that, you know, T.J. wants to fight you (inaudible), you
19 know, all these (inaudible) are putting their hands in my
20 face and, you know, I just got through, you know, telling
21 the girl off about putting her hands in my face. And so did
22 Kay, you know. Because no one really knew what was really
23 going on until after everything happened at this point.
24 FEMALE SPEAKER: So, again, just to be very clear,
25 that Mr. Skidmore would have put hands on you at the time

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1 when breaking up the dispute between you and the girls?
2 MR. MARIN: Yes.
3 FEMALE SPEAKER: Okay.
4 MR. MARIN: Right around that (inaudible).
5 FEMALE SPEAKER: Okay. Yeah, right. (Inaudible)
6 --
7 MR. MARIN: No. No, no, no, no, no. There were
8 more girls. There were more girls in the blind spot. This
9 is -- this -- that's kind of me trying to get out of this
10 girl's way because as you can see, she's in my face. And
11 walking away and explaining to him what's going on and then
12 he's, you know -- she's cussing and -- but -- and then I'm
13 going at him like, you know. And then there's more girls
14 around (inaudible) that I have -- Christine has also come
15 and she's one of the witnesses, you know, because no one
16 really had my back. And she knew I didn't know what was
17 going on, so she kind of, like, stepped in as a friend.
18 FEMALE SPEAKER: Who is the Kristin (inaudible)
19 Mr. Skidmore?
20 MR. MARIN: All I can tell you, right before he
21 probably made contact with (inaudible), that's when
22 (inaudible) people that. And to my knowledge, that's
23 (inaudible). Like, outside of maybe a, you know, just
24 something like for --
25 FEMALE SPEAKER: Mm-hmm.

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1 MR. MARIN: Yeah. But (inaudible) remember
2 happening. But I mean, when we -- when we saw (inaudible).
3 That's where I (inaudible) basketball game. Again -- again,
4 I don't -- I don't posture like that and I don't cuss like
5 that. Trust me, I'll (inaudible) but it's just lies, you
6 know what I'm saying? Like, I don't posture like that or
7 anything like that.
8 FEMALE SPEAKER: Okay. Let's (inaudible) --
9 MR. MARIN: (Inaudible) -- actually, can I
10 (inaudible) actually walking away from him going to my car.
11 He followed me. You know, he could have (inaudible) by the
12 door. He could have just let me go home and they could have
13 explained that to me on Monday. He could have had the
14 resource officer tell me that. He could have said that in a
15 much different way.
16 But he followed me. Anything could have happened
17 with him following me. He could have -- there's no trouble
18 with these people. He could have (inaudible) me or anything
19 like that. These people followed me. And then his friend,
20 the lady, well, all I did was tell him that I was going to,
21 you know, report him to the School Board for him putting his
22 hands on me. He twisted it up, you know, and -- and I'm
23 glad -- I don't know which one of them said it, but -- who
24 mentioned the School Board because he wasn't going to
25 mention that. He was just going to, you know, twist it up

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1 because I did tell him something. I did tell him something.
2 And what I told him was going to the School Board. By me
3 telling him something, that could have been anything, you
4 know, so --
5 FEMALE SPEAKER: I'm curious how you knew to
6 reference the School Board. A lot of students don't know
7 that. How did you know that?
8 MR. MARIN: Well, (inaudible) in civil.
9 FEMALE SPEAKER: Yeah. That's --
10 MR. MARIN: You know, I'm not --
11 FEMALE SPEAKER: So you're aware of the hierarchy
12 of --
13 MR. MARIN: Yeah, because if I tell him -- if I
14 tell him, what is he going to do? Nothing.
15 FEMALE SPEAKER: Okay. All right.
16 MR. MARIN: They probably consider me --
17 FEMALE SPEAKER: Sure. So, Quincy, we've heard
18 you speak quite a bit and clarify, and I'm going to ask that
19 you give us a moment to hear from Mr. Skidmore so he can
20 clarify from his perspective, albeit, different from yours.
21 But it's important that we hear his perception as well.
22 MR. MARIN: Mm-hmm.
23 FEMALE SPEAKER: Okay. Thank you.
24 MALE SPEAKER: (Inaudible) as he walked out, he
25 probably did greet me.

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1 FEMALE SPEAKER: Mm-hmm.
2 MALE SPEAKER: But our efforts -- and nothing --
3 the up and down or -- he tried to walk all the way out.
4 Litey was with me. She's the one who (inaudible)
5 investigation of what exactly was going on (inaudible).
6 So I did follow him a little ways, but only about
7 five feet past those boards, to make sure he heard me.
8 FEMALE SPEAKER: Mm-hmm.
9 MALE SPEAKER: "You're not to come back on Monday.
10 We will call -- we will get in contact with you,"
11 (inaudible). But that was -- that was after (inaudible).
12 MR. MARIN: Can I say something? (Inaudible)
13 something.
14 He followed me all the way down the block. I
15 remember him -- I said, "Then quit following me." You know,
16 he followed me all the way down the block in a (inaudible)
17 for that. That's the truth, you know. He -- he came at me.
18 He knew what he was doing.
19 FEMALE SPEAKER: The question around the
20 notification of the emergency expulsion. So the student's
21 walking away and you kind of (inaudible) walking away. I'm
22 not familiar -- familiar to the emergency expulsion. That
23 emergency portion kind of deems it necessary to make it
24 known quickly. That's the emergency part of it. What's
25 standard about that? I mean, just (inaudible) student as

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1 they're walking away or a notification after the moment
2 passes? I'm curious about the timing of that notification
3 as Quincy is walking away.
4 MALE SPEAKER: At a dance, we would do it just as
5 they did because (inaudible) after hours. If there were a
6 situation where it occurred during school hours, then we may
7 be able to do that. You know, we call the parents, they'd
8 know what's going on. But that wasn't the case at, you
9 know, 10 (inaudible) we could not do the emergency
10 expulsion.
11 If we do the emergency expulsion, we just kind of
12 do a timeout when we need to do some investigation, you
13 know, and both -- you know, if it were a fight between two
14 individuals, we'd probably emergency expel both of them
15 depending on how that looks. It's one (inaudible) other and
16 it's pretty cut and dried, you would -- you -- you know, you
17 would act on that.
18 But if there's any question (inaudible) emergency
19 expulsion, remove both parties so that we can conduct some
20 kind of a, you know, (inaudible).
21 FEMALE SPEAKER: And then, in this situation, what
22 -- you know, would it be investigated after the fact? What
23 was to be investigated after the fact?
24 MALE SPEAKER: Getting witness statements.
25 (Inaudible) the SROs.

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1 MALE SPEAKER: And you were not at the dance?
2 MALE SPEAKER: I was not at the -- or (inaudible),
3 no.
4 MALE SPEAKER: Did either you or Ms. Litey let him
5 know that he (inaudible) emergency expulsion has been
6 issued?
7 MALE SPEAKER: Yes. Well, it was -- yes,
8 (inaudible) Monday morning or Sunday.
9 MALE SPEAKER: Okay. So you would (inaudible) --
10 MALE SPEAKER: It was activated that night.
11 MALE SPEAKER: Okay.
12 MALE SPEAKER: (Inaudible.)
13 MALE SPEAKER: And I would like to include, as far
14 as our investigation, there were many events and the
15 resource office -- I saw a statement (inaudible) Skidmore.
16 (Inaudible) part of the school (inaudible) hearing
17 (inaudible) hearing, like those student statements that were
18 (inaudible) about his statement. They weren't (inaudible)
19 because dealing -- what they got were Quincy's statement
20 (inaudible) told -- I would like to correct that.
21 When we got the request for records, I sent
22 everything to Greg Stevens and they put together
23 (inaudible). I did not know what we were going to have, so
24 I -- you know, I just -- I gave you everything you'd need,
25 all the statements that were acquired, any of the emails,

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1 any of the statements, the video, you know, those were all
2 given to Greg Stevens and he put together that packet.
3 MALE SPEAKER: (Inaudible.)
4 MALE SPEAKER: Correct.
5 MALE SPEAKER: Can I ask one more question? I'm
6 sorry.
7 FEMALE SPEAKER: Mm-hmm.
8 MALE SPEAKER: And this is, I think, probably for
9 you.
10 Regarding Quincy, Mr. Skidmore, and (inaudible)
11 okay. I talked to Quincy, Mr. Skidmore, and Ms. Litey, who
12 all potentially was a witness to the threat, the physical
13 threat being made. It's not very clear to me if -- where
14 the threat was made. There was (inaudible) I can't
15 (inaudible) who else would have been out there at the time
16 that the allegations -- the alleged threat was made.
17 (Inaudible conversation occurring.)
18 MALE SPEAKER: They may not have heard, but they
19 were there.
20 MALE SPEAKER: (Inaudible.)
21 MR. MARIN: Okay. (Inaudible) when everything was
22 kind of, like, settling down, (inaudible) saying like this
23 and stuff, just trying to irritate me. And I was
24 (inaudible).
25 And one of the students that -- that sees the

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1 fight came over and apologized to me because -- and there's
2 another student (inaudible) cussing him out because they --
3 it started as soon as, like, you know, being mad at me, just
4 being mad at him because (inaudible) he was still -- so this
5 girl was drunk or she was -- shook my hand and apologized to
6 me and went on about her business, you know. There -- I
7 don't feel like there was no dispute investigated.
8 But he even -- he seen that. He seen it. He -- I
9 looked right at him, like dead in his face and, you know,
10 like confirming it, and then he still continued to pick at
11 me and tell me to (inaudible).
12 FEMALE SPEAKER: In your -- if I understand you
13 correctly, you said that confirmed your conflict from inside
14 the (inaudible), therefore, your trouble should have been
15 over.
16 MR. MARIN: Yeah. Because, you know, there was no
17 -- because I really didn't know what was going on and then
18 the girl told him and me right there at that point that, you
19 know, she was under the impression that I was trying to -- I
20 was messing with her friend (inaudible) with somebody, but
21 that's not the case. And she said that she's sorry that I'm
22 dealing with this. So, you know -- and he was right there.
23 (Inaudible.) He might say that he was (inaudible).
24 FEMALE SPEAKER: Okay. And that's -- that was in
25 here. I recall reading --

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1 MR. MARIN: Yeah.
2 FEMALE SPEAKER: Any further questions or
3 clarifications?
4 MR. MARIN: Why -- I apologize.
5 FEMALE SPEAKER: That's okay.
6 MR. MARIN: Why weren't the resource officers at
7 (inaudible)?
8 MALE SPEAKER: (Inaudible) I'm a big -- you know,
9 they're -- they're working (inaudible) we had two adults
10 already that, you know, could tell what happened with Mr.
11 Skidmore and Mrs. Litey and they will just be repetitious of
12 what they're already going to do. But I did have statements
13 from them, like I said, you know, so those are part of the
14 packet that I gave to Mr. Stevens.
15 FEMALE SPEAKER: I have a question, and since it -
16 - Quincy's attorney has used the word "discrimination" and
17 Quincy brought up the word "profiling", I have a question
18 for Mr. Ochse.
19 Has -- Lewis & Clark has a population of students
20 of color. Have you had complaints from any student, parent,
21 member of the -- you don't know what my question is yet --
22 of the LC community that Mr. Skidmore has demonstrated a
23 lack of respect or discriminatory behavior or treatment
24 towards any student of color?
25 MR. OCHSE: No.

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1 FEMALE SPEAKER: And one question (inaudible) and
2 it's because Quincy mentioned about the day you -- feeling
3 targeted from the day you arrived. I'm curious as to when -
4 - when this transcript came through and the (inaudible) came
5 through, what you could (inaudible) and can you clarify what
6 -- what does that translate to in terms of (inaudible)
7 towards graduation?
8 MALE SPEAKER: Well, we need to -- you know, 13
9 would be (inaudible). He should have graduated in 2014. So
10 (inaudible) graduate in 2016.
11 MALE SPEAKER: Beyond a sophomore. You mean
12 junior or --
13 MALE SPEAKER: It would just be -- well, like one
14 credit beyond -- well, actually, if you take (inaudible) --
15 MALE SPEAKER: (Inaudible)?
16 MALE SPEAKER: (Inaudible) be junior class, one
17 credit into the junior class. So he still would need --
18 require five more to be (inaudible) junior (inaudible).
19 MR. MARIN: I take six credits.
20 MALE SPEAKER: Your freshman year, it says, you
21 know, (inaudible) you've got six credits. It needs to be 12
22 to be in sophomore year. You have 13, so it's just -- you
23 know, just one foot into the junior year.
24 FEMALE SPEAKER: Okay. And my question is just
25 because some of what you've described as -- could possibly

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1 be (inaudible) of the scheduling (inaudible) finding of,
2 like -- but I know you really (inaudible). I read that in
3 the transcript. Just curious if there was a -- looking for
4 the (inaudible), even if it wasn't for what you wanted.
5 Seems that I asked that.
6 MR. MARIN: (Inaudible.)
7 FEMALE SPEAKER: So which school?
8 MR. MARIN: Oh, for which school?
9 FEMALE SPEAKER: Mm-hmm.
10 MR. MARIN: Oh. Well, actually, let me try and
11 explain to you what happened. I did have the credits. I
12 would have -- because I came down here by myself, you know.
13 I made sure everything was going to go as planned. The
14 thing is, is that I have the credits, but when I got here,
15 they were saying, like, (inaudible) early in (inaudible).
16 So I basically lost the credits that I had earned.
17 FEMALE SPEAKER: Okay.
18 MR. MARIN: Just -- you see? So --
19 FEMALE SPEAKER: Took them the first quarter, you
20 mean?
21 MR. MARIN: The first quarter?
22 FEMALE SPEAKER: Mm-hmm.
23 MR. MARIN: (Inaudible) --
24 FEMALE SPEAKER: Sure.
25 MR. MARIN: Okay. Yeah. So I lost those credits

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1 because I have -- I worked so hard for those credits. I
2 mean, the credits were there, but they didn't put it in the
3 transcript because I -- I couldn't wait, you know.
4 FEMALE SPEAKER: Until the end of the term.
5 MR. MARIN: Yeah. Because it -- it feels like
6 it's maybe, like, the beginning of October, if I was in
7 Spokane then, then I would have had those credits.
8 (Inaudible) I mean -- and, see, I didn't really know. But
9 then by me leaving that early, they didn't transfer over.
10 So it wasn't like I was walking around (inaudible), but, you
11 know, that's how it happened when I got down here.
12 So they -- they didn't talk to me about any of
13 those type things. Seem like they -- they did mention
14 things that would benefit me because I would -- they asked
15 me what did I want to do in life and stuff like that, and I
16 told them no. So they were telling me about -- because I
17 didn't know about Running Start. I didn't know about
18 Gateway or anything like that. So Mrs. Grant, just -- just
19 a nice person, she -- she would explain it to me, this is
20 things I can do. And then she was talking to me and she set
21 up my classes, you know.
22 FEMALE SPEAKER: Okay.
23 MR. MARIN: (Inaudible) I mean, what she saw and
24 what she really (inaudible).
25 FEMALE SPEAKER: Anything else (inaudible)?

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1 MR. STEVENS: (Inaudible) give it to me of what
2 (inaudible) need correction you'd like to see in the
3 transcript and I can (inaudible) the Board.
4 Is the Board ready to move into deliberation?
5 FEMALE SPEAKER: We are. We are. So thank you
6 all for being here and bringing -- bringing your testimony
7 to us and we will, you know, (inaudible) the motion. We
8 will meet in private to deliberate and (inaudible). That's
9 it. (Inaudible.) So thank you.
10 MALE SPEAKER: The hearing is closed at 3:35.
11 Taping is going to stop.
12 (Whereupon, the proceedings were concluded.)
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1 CERTIFICATE
2
3 I, Sheri L. Schneider, do hereby certify that
4 the proceeding named herein was professionally transcribed
5 on the date set forth in the certificate herein; that
6 I transcribed all testimony adduced and other oral
7 proceedings had in the foregoing matter; and that the
8 foregoing transcript pages constitute a full, true and
9 correct record of such testimony adduced and oral
10 proceeding had and of the whole thereof.
11
12 IN WITNESS HEREOF, I have hereunto set my hand
13 this 23rd day of February, 2016.
14
15
16
17
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19
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21
22 /S/ Sheri Schneider
23
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25

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2 Transcript of: Hearing Date: 12/14/15
3 Regarding: Marin vs. Spokane Public Schools
4 Transcriber: Schneider
5 _____
6 Please make all corrections, changes or clarifications
7 to your testimony on this sheet, showing page and line
8 number. If there are no changes, write "none" across
9 the page. Sign this sheet on the line provided.
10 Page Line Reason for Change
11 ____ ____ _____
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19 ____ ____ _____
20 ____ ____ _____
21 ____ ____ _____
22 Print Name _____
23
24 Signature _____
25

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1 DECLARATION
2 Transcript of: Hearing Date: 12/14/15
3 Regarding: Marin vs. Spokane Public Schools
4 Transcriber: Schneider
5 _____
6
7 I declare under penalty of perjury the following to
8 be true:
9
10 I have read my deposition and the same is true and
11 accurate save and except for any corrections as made
12 by me on the Correction Page herein.
13
14 Signed at _____, _____
15 on the _____ day of _____, 2016.
16
17
18
19
20
21
22 Print Name _____
23
24 Signature _____
25

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Appendix F:

Letter from Attorney Dan Ophardt Requesting Appeal to the School Board, 11-20-15 (CP58-59)

Team *Advocacy for Youth*

November 20, 2015

RECEIVED
NOV 23 2015
STEVENS, CLAY P.S.

Via Regular Mail and Facsimile
Spokane Public Schools
C/O: Greg Stevens
Stevens Clay
421 W Riverside Ave, # 1575
Spokane, WA 99201
Fax: 509-623-2131

Re: Marin, Quincy (DOB: 12/1/96); Request for Long-term Suspension/Expulsion Appeal Hearing to the School Board

Dear Mr. Stevens:

As you know, TeamChild represents Quincy Marin, an 18-year old homeless student enrolled in Spokane Public Schools. At this time, we are requesting an appeal to the District's Board of Directors of the decision made by the District's Hearing Officer to uphold Quincy's exclusion from Lewis and Clark High School. After a hearing on November 16, 2015, the District's Hearing Officer converted Quincy's expulsion to a long-term suspension through the end of the current semester. Quincy appeals that decision at this time.

Pursuant to Washington Administrative Code 392-400-310, Quincy is requesting an appeal of the long-term suspension/expulsion to the Board of Directors. Pursuant to WAC 392-400-310, we are requesting this appeal within three school business days from receiving the hearing decision. Under WAC 392-400-315, an informal conference should be scheduled within ten days of this request in order to discuss how the Board will hear this appeal. We ask that, pursuant to 392-400-315(1)(c), the Board hear the appeal de novo.

At the hearing, Lewis and Clark High School failed to provide any evidence of a true threat of violence. It provided evidence of Quincy threatening to make the School Board aware of Mr. Taylor Skidmore "putting hands" on Quincy. Additionally, its main argument for its exclusion of Quincy was that Quincy was not "a fit" at Lewis and Clark High School because he is behind pace to graduate within the next year and has already turned 18. This is not a legal reason to expel or suspend Quincy and only strengthens Quincy's detailed account of actions taken by school administrators to make him feel unwanted and targeted since the moment he walked into Lewis and Clark High School.

Quincy's account of the way he was treated by Mr. Skidmore since the day he started school is extremely disturbing. As a homeless, parentless student of color, Quincy is one of Spokane Public Schools' most vulnerable students. Quincy's account details Lewis and Clark administrators attempting to prevent his enrollment, then watching him closely over the course of a month for no reason before kicking him out of school, also without reason. At Quincy's expulsion hearing, Lewis and Clark High School provided no evidence of a threat of violence, and the District's Hearing Officer upheld a long-term suspension without giving a rationale. Further, the District's Hearing Officer made recommendations that Quincy not return to Lewis and Clark High School even after the exclusion ends, very much in keeping with the school's theme that Quincy does not "fit in" and with their previous requests that he change school programs.

Quincy is an impressive young man who has had to grow up before most his age. Against all odds, he wants to graduate high school and attend college. To hear how he was treated by Lewis and Clark High School and the District since moving to Spokane is extremely disappointing and embarrassing for our community. His disciplinary exclusion needs to end immediately so that he can proceed with his education. Because of his experience in Spokane Public Schools, he is interested in transferring districts, but he will likely not be allowed to do so while this illegal exclusion continues.

In connection with our request for an appeal hearing, please provide me with the following at your earliest convenience:

1. Any documentary evidence the School expects to introduce at the appeal that it has not already disclosed;

2. A list of all witnesses Lewis and Clark High School expects to call at the appeal; and

3. The recording of the long-term suspension hearing.

We remain in hopes that we can work toward an equitable resolution of this matter with the District. Please feel free to contact us prior to this hearing if you feel that we can work together to find a resolution to Quincy's continued exclusion that will meet his educational needs. I may be reached at 509-323-1166 to discuss the contents of this letter.

Sincerely,

Daniel D. Ophardt

Daniel Ophardt
Staff Attorney

Cc: Quincy Marin

Offices in King ♦ Pierce ♦ Snohomish ♦ Spokane ♦ Yakima Counties

Spokane County Office: 1704 W. Broadway, Spokane, WA 99201 (509) 323-1166 Fax (509) 232-3051 ♦ www.teamchild.org

Appendix G:
Hearing Officer's Decision, (CP 60-61)

Bonnie Ducharme
Hearing Authority
Spokane Public Schools

November 17, 2015

Quincy R Marin
32 W Pacific Ave.
Spokane, WA 99201

Re: Emergency Expulsion Converted to Expulsion, Threat to Staff

Dear Quincy,

In response to your request, a hearing was conducted on November 16, 2015. The purpose of this hearing was to provide you a formal opportunity to present your version of the events that occurred on October 19, 2015, culminating in the discipline action of expulsion, per district policy #3200, for Lewis and Clark High School.

Testimony regarding this event was offered by: Mr. Dan Close, Assistant Principal of Lewis and Clark High School, Ms. Theresa Meyer, Assistant Principal of Lewis and Clark High School, Ms. Tracey Leyde, Principal Assistant of Lewis and Clark High School, Mr. Taylor Skidmore, Principal Assistant of Lewis and Clark High School, Ms. Jennifer Westfall, Assistant Secretary of Lewis and Clark High School, Ms. Sarah Miller, McKinney-Vento Liaison, HEART Program, Spokane Public Schools. You also provided testimony regarding this event. Also in attendance was Dr. David Crump, Director in Student Services, Mr. Greg Stevens, attorney for Spokane Public Schools, and Mr. Dan Ophardt, attorney for Quincy Marin.

A video of actions that occurred at Lewis and Clark High School on October 19, 2015 was viewed. An opportunity was given to you, your attorney Mr. Ophardt, and Spokane Public Schools attorney, Mr. Stevens to question witnesses.

In full consideration of these events and the testimony provided by the school and by advocates for Quincy Marin, I am upholding the discipline action of emergency expulsion imposed by Lewis and Clark High School on October 19th, 2015. I am overturning the discipline action of expulsion through June 15, 2016 and I am imposing a long-term suspension through January 29th, 2016.

In addition, I support several recommendations made during this hearing.

1.) That Quincy Marin does not return to Lewis and Clark High School at the conclusion of this long-term suspension.

2.) That the school district work cooperatively with Quincy Marin and his advocates to secure a school placement for Quincy that will provide him the opportunity to earn credits in a more timely manner in order to graduate from high school.

If you have any questions regarding this decision or related matters, please contact Dr. David Crump, Director in Student Services at 354-7946.

Sincerely,

Bonnie Ducharme

Bonnie Ducharme, Hearing Authority

cc. Dr. Shelley Redinger, Superintendent
Mr. Shawn Jordan, Director of Secondary Programs
Dr. David Crump, Director in Student Services
Mr. Dan Close, Assistant Principal, Lewis and Clark High School
Mr. Jeremy Ochse, Principal, Lewis and Clark High School
Mr. Quincy R. Marin, student

Appendix H:

Transcript of Student Discipline Hearing, 11-16-15 (CP 62-102)

Quincy Marin Transcription

Please note: Due to poor audio there were names that were not audible so the speaker was labeled, Unknown. Also, there were times where a person would begin talking without identifying themselves and this was also labeled, Unknown. Throughout the transcript you will find the word inaudible which took the place of words that were indistinguishable.

Quincy Marin Hearing

HO: Welcome everyone I'm Bonnie DuCharme this is a hearing regarding the discipline action or expulsion for Quincy Marin. Before we start, I would like to go around and have everybody introduce themselves. I'm asking them to print their names since we'll have quite a few people here. So I'm Bonnie DuCharme, Taylor Skidmore LC, Dave Crump district representative student services, district attorney, assistant principal Lewis and Clark, Quincy Marin former student, Dan Ophardt, attorney for Quincy.

HO: Thank you, I understand that LC has other witnesses besides Taylor. We will call them in so we won't have everybody in here at the same time. When they come in I will ask them to state their name for the record. To make sure that we all have the same information Jeannie Brown for Spokane Public schools receptionist copied off a document for me. I have a three page document I want to make sure everyone has a copy. I'll give you a copy Quincy. Let's refer to this is as page 1 notice of emergency expulsion, page 2 notice of discipline action converted, and page 3 letter from Quincy from inaudible.

Mr. Ophardt: I also have some documents we want to go to those now?

HO: What documents are those?

Mr. Ophardt: There's a statement that Quincy wrote on October 21st in student services and that's about his experiences at LC before the homecoming dance. There's a statement from Kristin Rogers made in the administration office at Lewis and Clark and there's a statement from inaudible also at Lewis and Clark and notes from a Lisa Renner, guidance counselor for Quincy on Oct. 21st, a records request and fulfillment from **inaudible** previous school district in California.

HO: Why don't you pass that document out when you talk about your case and I assume that Quincy, you will testify on behalf of yourself.

Mr. Stevens: And the other issue that I have is the video and whether we have capabilities of showing it I brought the video with me but I don't know if we have time to talk about doing that today

Unknown: I didn't know that you wanted to show the video. Bonnie is that something we could get in?

HO: yes we could it's not set up to do that right now but if there is a video you'd like to use that in support of Quincy I think we need to see the video

Quincy: If we need to just show that on my laptop that will be fine.

HO: Let's do that at the time when you present your case. Let's go ahead and get started and as you know this is all being recorded so first of all who would like to speak

first?

Mr. Close: I will start this is in regards to Lewis and Clark the emergency expulsion of Quincy because of his behaviors and actions at the homecoming dance on October 17th.

HO: Excuse me for the record this is Dan Close, assistant principal at LC.

Mr. Close: after the expulsion we conducted an investigation and the emergency expulsion was converted to an expulsion and I made a call which is one of the three documents that was the text of my call and left a message letting Quincy know that that was being done in addition I was sending home the notification. I was not at the dance of will be having people who were at the dance talk as far as what occurred. The first of those would be Taylor Skidmore. So you were at the dance.

Mr. Skidmore: So the night of the dance it would've been around 10 o'clock or so in the gymnasium and I saw a large group of females exit the gymnasium. Since it was my job to supervise, I followed the females and I came upon a group of students who were arguing. I wasn't sure at that point what the argument was about, I just kind hung out to make sure that it didn't escalate. Once it got pretty heated, I decided to step in and it ended up being between a handful of young ladies and Quincy. They were arguing back and forth with loud voices and a lot of language. At one point, they had gotten so close and Quincy and the girls were posturing towards one another like they were going to go at each other. At that point, I stepped in and I did one of these. I got between the students they kind of continued, the girls going at Quincy and Quincy kind of coming towards the girls as well. At one point, I turned back to Quincy because he was saying things to the girls in the girls were getting angry and coming at him. So I turned my back to Quincy and kind of pushing the girls away. Eventually it died down as I was in the middle and a it kind of calmed down a little bit. But because of what had happened, I decided to say, "both of you young ladies and Quincy, you need to leave. This would've been around 10:15 or so. After little bit of coaxing, the young ladies did finally leave. Quincy continued to argue with me and say "F this F that" I'm not leaving, you can't make me leave. And so as we walked down the stairs of the gymnasium that was the point in which I first saw Officer Walt P. and I decided to get him involved because Quincy was continuing. So we stood outside for little while and officer P. was continuing to try to calm Quincy down and Quincy kept referring to me at about 10 feet away as "that mother fucker." At that point, I knew I was in the position to get the inaudible principal assistance involved, and I think she had actually seen what was going on and came outside with me. At that point, Officer Walt P. allowed Quincy to go back into the gymnasium to find his girlfriend's shoes or his date I guess. I believe that is what you said. After not leaving for maybe 10 or 15 minutes, I walked back inside and eventually all of us then made our way down the stairs then back outside. Alongside me was Tracy and as Quincy was walking away, continuing to use the language, Tracy and I both decided to let him know that he was emergency expelled and that he didn't need to come back to school that following Monday. He then turned around and postured and kind of got in my face and said "the next time you touch me see what happens!" I

thought he was referring to when I was doing that inaudible. At that point he walked away very angry. We were pretty relieved that the situation had ended. The other two girls had left and Quincy had finally left as well. The next thing I knew Quincy drove up in front of the school and I was actually back inside of the building. The young lady that had come with Quincy got out of the car and said I'm not riding with him. I forget exactly what she said but that basically Quincy was trying to get her to go to an 18-year-old club and she's a 14-year-old girl. At that point, I called this young ladies mom and said she's safe and she's here. Next thing I knew, Quincy had come back to school that Monday morning even though we told him not to. From that point on, me and Quincy didn't have any other discussions.

HO: And you said on Monday that Quincy had come back to LC?

Mr. Skidmore: Yes.

HO: And what happened at that time?

Mr. Skidmore: I got out of the whole situation. The resource officers, Walt was there that morning as well as Dan Johnson and two of them. Quincy knew that there was expulsion and that he was not allowed to be on campus.

HO: Mr. Skidmore do you have anything else to add?

Mr. Skidmore: I don't think so. The main thing for me was, it went from me just kind of breaking up a quarrel, to Quincy posturing and his actions kind of being threatening towards myself, and so at that point, I expected inaudible. There wasn't going to be any repercussions. It was just you guys are arguing, you need to go home, but then it turned on me and I felt threatened.

HO: And you have questions of this witness?

Dan: I do. I think I would prefer for them to go all at once because I think a lot of them will be relevant coming from Quincy's testimony. Will Mr. Skidmore be available full time or would you excuse him if we could get those questions out now?

Stevens: I think the plan was that for each of the witnesses, Mr. close would ask the questions, they would say what they know, and you would have an opportunity to question, and they would be excused.

HO: Dan you said that could take up to three hours. I'm not to keep each of these people here for that amount of time.

Unknown: So that is fine I still wonder whether the district, the school would like Mr. Skidmore to be there during the arguing as Quincy will be able to narrate it, he might have a bit more to say about it as well.

Mr. Skidmore: I can stay.

HO: at this point has anybody seen the video?

Inaudible yes

HO: and you've seen it, and you've seen it?

Inaudible yes

HO: Okay well let's go ahead and have Mr. Skidmore step out if there are no questions at this time.

Unknown: Can you please grab Ms. Westfall

Dave: For the record Taylor Skidmore left and is going to get Ms. Westfall: Westfall.

HO: So the next witness is Ms. Westfall: Westfall.

Dave: Inaudible Okay Ms. Westfall: has now entered the room and she has signed this document.

Mr. Close: Ms. Westfall: were you are at this homecoming dance on October 17th at Lewis and Clark?

Ms. Westfall: yes I was.

Mr. Close: Okay, what did you observe? Let's establish who she is.

Ms. Westfall: Assistant Secretary I was serving as a volunteer chaperone the night of homecoming.

Mr. Close: What did you observe that night?

Ms. Westfall: At the time of the incident, I was stationed in the hallway near the restrooms and about 15 to 20 feet away from the gymnasium. I heard an altercation between two ladies that seemed to be escalating. At that point, I made my way down the hallway toward where the issue was taking place and Taylor Skidmore, at that point, was separating the young ladies and trying to de-escalate the situation. At that point, Quincy was being really argumentative with Mr. Skidmore and noncompliant with his requests to leave the dance. At that point, Taylor had asked all the folks involved to get the things together and to leave.

Mr. Close: How many times did he ask them to leave?

Ms. Westfall: Repeatedly. It was something that Taylor continued to repeat. It was a

very simple request. I have asked you please leave the dance.

Mr. Close: Was that just Quincy, or the girls as well?

Ms. Westfall: All three involved.

HO: And how many girls were there?

Ms. Westfall: Two young ladies.

Mr. Close: Did you ever see Mr. Skidmore put his hands on Quincy, or push him, or shoved him?

Ms. Westfall: No I did not.

Mr. Close: Did you ever hear him swear our cuss?

Ms. Westfall: No I did not.

Mr. Close: Did Mr. Skidmore ever yell at him?

Ms. Westfall: No Taylor kept a very cool, calm, even keel approach to the situation and he was making every attempt to de-escalate what was going on.

Mr. Close: What was he saying as he was doing that?

Ms. Westfall: I heard him continuing to ask the folks involved to please leave. The request was, I have asked you to get your things together and please leave.

Mr. Close: And you said, he said that repeatedly?

Ms. Westfall: Yes.

HO: I'm sorry Jennifer, was this in the hallway or in the gym

Ms. Westfall: This is in the hallway outside of the gym.

HO: So what happened next? At that point, where did you go?

Ms. Westfall: I stayed in that same general area outside. The gymnasium sits on one side the wrestling room off to the side. The altercation was kind of occurring in those areas. I stayed down at that end of the hallway just in case additional assistance was needed in any way.

HO: And then what did you see?

Ms. Westfall: At that point, the group is continuing to stay in that same area and being noncompliant with that request to leave. The argumentative behavior continued as Taylor continued to ask them to please leave and reminded them that they have been asked to leave the dance. He was making every attempt to diffuse the situation.

Mr. Close: Was it just Quincy and the girls? Or just the girls, or just Quincy?

Ms. Westfall: He was the one that I saw remaining in the area continuing. He was staying right by Mr. Skidmore and continuing to be argumentative.

Mr. Close: What kind of things was he saying?

Ms. Westfall: I saw more arm gestures and puffing out of the chest and it was more body language at that point and continuing to ask, Why? Why?

Mr. Close: When did you finally leave that area?

Ms. Westfall: I stayed in that area until the students were heading down the steps to leave.

Mr. Close: Did you see the students enter the wrestling room at all?

Ms. Westfall: I saw the ladies grabbed their things. I saw Quincy walk into that general area to the front entryway. I did not see him go any further than that.

Mr. Close: That's all I have.

HO: So at that time, he saw Quincy walk by the area by the wrestling room. The girls also left the area. So that was that the end of what you witnessed?

Ms. Westfall: Yes it is.

HO: Mr. Stevens or Mr. Close do have questions?

Unknown: No.

Mr. Ophardt: So you describe Quincy as a little argumentative and noncompliant?

Ms. Westfall: Yes.

Mr. Ophardt: Did you hear him threaten anyone?

Ms. Westfall: I did not hear a direct threat to anyone.

Mr. Ophardt: What do you mean by not a direct threat?

Ms. Westfall: The body language that was being displayed, I'm a former domestic violence counselor. The body language that was displayed to me is a bit concerning when you have a student whose continuing to posture in that way.

Mr. Ophardt: Did you know what the argument was about at that time?

Ms. Westfall: No. Simply hearsay-what was going among us.

Mr. Ophardt: And what was that hearsay?

Ms. Westfall: Questioning of the ladies as to who was there with Quincy which one of them.

Mr. Ophardt: You made a point to say that you didn't see Mr. Skidmore pushing Quincy this section was not audible.

Ms. Westfall: I heard that after the dance, and it was from, I believe, one of the administrators at school.

Mr. Ophardt: You don't remember which one?

Ms. Westfall: No I don't.

Unknown: Remember the statement to

Ms. Westfall: I made a statement to Mr. Close.

Mr. Ophardt: That's all my questions. Does Quincy have any?

Dave: Ms. Westfall just left the room and Tracy Myers assistant principal at Lewis and Clark high school will be coming in.

Dave: Tracy Myers assistant principal Lewis and Clark high school has just entered

Mr. Close: Theresa were you present at the homecoming dance on October 17th?

Ms. Meyer: Yes.

Mr. Close: Was there an incident between Quincy and some girls?

M.s Meyer: Yes.

Mr. Close: Did you observe any of that?

Ms. Meyer: Yes.

Mr. Close: Can you tell me about it?

Ms. Meyer: Yes. I was down at the door. I was manning the door most of the night by the cash box. I heard a ruckus upstairs and at the very top of the stairs right in the entryway outside the main gym, Quincy, Mr. Skidmore and a group of girls were there. Quincy and the girls were yelling at each other. Mr. Skidmore was kind of in between trying to keep them separated. Mr. Skidmore told everybody to stop. The arguing continued. He told Quincy you've got to go. You have to leave. Quincy I believe went to the wrestling room, and I followed Mr. Skidmore in there and I that's where we talked for the first time, where I introduced myself. Then Quincy left to leave and then came back into the building. I never went outside during the events.

Mr. Close: Did you get involved to help separate them when they were arguing?

Ms. Meyer: Yes.

Mr. Close: Did Mr. Skidmore inaudible the wrestling room?

Ms. Meyer: I do not recall going into the wrestling room. Quincy I were to the left talking.

Mr. Close: Did you follow Mr. Skidmore and Quincy as they went down the stairs?

Ms. Meyer: I think I went down the stairs but didn't go outside because the cash box was sitting over there.

Mr. Close: Did you observe Mr. Skidmore at any time?

Ms. Meyer: I saw him standing in between the students like this.

Mr. Close: Did you hear Mr. Skidmore swear or curse at Quincy?

Ms. Meyer: No.

Mr. Close: Were the individuals involved cooperating with directions Mr. Skidmore was giving?

Ms. Meyer: Not initially, no. Not for quite some time inaudible Quincy or the girls.

Mr. Close: Did either end up complying with the directions?

Ms. Meyer: I'm not sure about the girls because I went in the wrestling room with Quincy and at that point Quincy was talking to me. Then he left but then he came back in.

Mr. Close: When you talked with Quincy what was he saying?

Ms. Meyer: That the girls were trying to fight him that we needed to keep them

separated, he was going to fight, he didn't want to fight, but could fight with them. He said at one point and inaudible even talked about this, he wasn't in his right mind and just kind of needed to get out of the situation.

HO: And inaudible conversation to face with Quincy?

MS. MEYER: In the wrestling room.

Mr. Close: That's all the questions I have.

HO: Mr. Stevens do you have any questions?

Mr. Ophart: Ms. Myers did you hear Quincy threaten Mr. Skidmore?

MS. MEYER: I heard a lot of swearing. I don't know who was inaudible because I was little towards the end when they were still arguing. I did hear the b word F word thrown around quite a bit.

Mr. Ophart: But no threats?

MS. MEYER: That's not when I was up there.

Mr. Ophart: He didn't threaten you and all?

MS. MEYER: No.

Mr. Ophart: Did you hear them threaten any other staff?

MS. MEYER: There were no other staff around.

Mr. Ophart: That's all my questions.

HO: This witness is excused?

Dave: Tracy Meyers is just leaving. The next witness coming in will be Tracy Leyde, she is the principal assistant at Lewis and Clark High School.

Dave: Tracey Leyde has now come in.

HO: Tracy for the record can you say your name and position?

Mr. Close: Were you present at the homecoming dance on October 17th?

Tracey Leyde: I was.

Mr. Close: Okay great, was there an incident between Quincy and several girls?

Tracey Leyde: Yes.

Mr. Close: Did you witness any of that?

Tracey Leyde: I did not witness any of that. I witnessed the aftermath the very upset girls.

Mr. Close: Okay when Quincy finally left the building did you along with the campus resource officers and Mr. Skidmore escort him down the steps and out of the building?

Tracey Leyde: Yes.

Mr. Close: Tell me what happened?

Tracey Leyde: Quincy left the building he was swearing and very upset and angry. All of this anger was directed at Mr. Skidmore. He was very aggressive, very elevated, he was swearing all the way out of the wrestling room. He got out onto the street inaudible. He started swearing at Mr. Skidmore. He was telling Mr. Skidmore that if you ever put your hands on me again, you will regret what happens.

Mr. Close: So are you saying the Quincy was being argumentative?

Tracey Leyde: Yes.

Mr. Close: Did you ever hear Mr. Skidmore swear at Quincy?

Tracey Leyde: No.

Mr. Close: Did you ever see Mr. Skidmore push or shove Quincy?

Tracey Leyde: No, In fact, I saw Quincy turn around and get directly in Mr. Skidmore's face and he postured and swore at him calling him fucking asshole, mother fucker.

Mr. Close: How far away from him, how far away were they separated when that occurred?

Tracey Leyde: He was right almost chest to chest.

Mr. Close: So did you hear Mr. Skidmore tell Quincy that he was in emergency expelled and was not to come to school Monday and that he would be getting a call to continue this process?

Tracey Leyde: Yes.

Mr. Close: How did Quincy react to that?

Tracey Leyde: I do not remember if I said it or Mr. Skidmore said you're emergency expelled. It was either he or I and that means that you can't be within 1000 feet of the school and don't come to school on Monday. Monday we will call you to explain the process.

Mr. Close: And what was how did he respond to that?

Tracey Leyde: I don't care about your fucking rules. You are all a bunch of assholes.

Mr. Close: What happened next?

Tracey Leyde: He said, I'm not going to listen to you. Then he went down the street a little ways, then he left.

Mr. Ophardt: Did you have any other interactions with him or any of the girls after that?

Tracey Leyde: We were very concerned about the date leaving with him in such an elevated state so we called the date's mother to let her know that we have some concerns. The next thing we knew, the date was back. She jumped out of the car.

Mr. Ophardt: Those are all questions that I have.

HO: Mr. Stevens do have any questions at this point?

Mr. Ophardt: Yes. Did you make a statement or write out a statement before today about what happened.

Tracey Leyde: Yes I did.

Mr. Ophardt: When was that?

Tracey Leyde: I don't know the exact date. I emailed it to our principal.

Mr. Ophardt: For what reason did you write that statement?

Tracey Leyde: After I heard that there was going to be a hearing, I jotted down my thoughts because it's easy to forget.

Mr. Ophardt: So today you said that Quincy said if you ever put your hands on me, you will regret what happens. Correct? In that statement that you, that Quincy said, "I am going to the school board, I did not like how you put your hands on me. If you ever come near me again you'll regret it." Is that what you wrote in a statement and that is what Quincy said?

Tracey Leyde: Yes.

Mr. Ophardt: That's all my questions.

Quincy: I have a question for you?

Tracey Leyde: Sure

Quincy: How exactly did my date jump out of my car?

Tracey Leyde: I don't know. That's what she told me.

Quincy: I thought that what you just said right now, you'd seen her jump out of my car. Sorry.

Tracey Leyde: No. That's just what she said.

Dave: Can Tracy go back to school? Tracy is just leaving..

Those are all the witnesses that we have.

HO: Just to make sure I'm up to speed, we have one witness remaining?

Mr. Ophardt: Correct

HO: Is there any further testimony from LC?

Mr. Close: Maybe after Quincy testifies.

Mr. Stevens: Let's establish that closing up argument procedures. You said you want to have rebuttal and that's understandable.

HO: I would prefer that we do closing arguments after both sides have presented their case and each side gets one opportunity to present their closing arguments. So we want one or two redirects.

Mr. Ophardt: Quincy at this time, I would like you to describe how you got to Spokane and Lewis and Clark and describe some of your first experiences with Lewis and Clark over the first month there.

Quincy: First of all, I'm from Fresno California. Where I come from, you know, it's not a good area for someone like myself who would want to move up in life, less of an opportunity. This will kind of give you a rundown on my living situation. I've been working since like a young age and stuff. So I got established in California, I worked my way up. By my past situation whether, that's living situation, and I worked my way up to move down here to Spokane and get myself in the school. I got caught up on some credits and I made a phone call with my cousin and we got a pretty good understanding.

She told me that her district is Mead High School so that's the first person I've been in contact. While in California I sent transcripts and I came down here to them not even being in my district. So anyways, I went from Mead to North Central to inter enroll and that's why I met Mr inaudible and I gave him the rundown on my situation and what I've been through and stuff and what I'm trying to do. I wasn't in his district either but he did linked me up with Sarah Miller and he gave me instructions on how to enroll because I was using the shelters address to go to Lewis and Clark. And he told me I should be fine. And he gave me the instructions and told me that I should go and basically, I put that into effect. I do not know the exact dates when I went to enroll for Lewis and Clark but I do remember it was like a week or so after school started. So it was a little late in the school year and I also remember what happened on that day. I went to Lewis and Clark. It was kind of confusing to get in but I did manage to find the right entrance in. I wore Timberland boots, pants. I'm actually wearing the pants I wore that day and a green parka and a white and black striped shirt. I went to my right and I don't know exactly what the offices were called by that I was going to enroll. Someone was on the other side that was the left and went to go get information on to enroll and I was speaking to someone. She was a substitute lady for the office. So when I was in there, she was like, I was expecting you. But she didn't really know what she was talking about. I was there for a registration form. That's when Taylor Skidmore, I kind of caught his attention. I guess that's when he began to, I thought was going to help me enroll in school. He pulled me into his office, and I explained what I was there for, who I was,who I was there to speak to because I already had the instructions on what to do. And the first thing that he did do was comment on my appearance and that was basically profiling, you know? You coming in here with the hood and nothing good ever happens to you. You know people, basically, I don't know what he was referring to, but I was very offended by it. It didn't even make sense to me what he was even talking about. I was sick at the time and I wouldn't say was aggravated but I didn't have the patience for what he was talking about because it just didn't make sense. But I did keep my composure and I respected him. He told me about my hood and that I walked on campus and that's probably why I was stopped. I said what are you talking about? Nobody stopped me. After that he kept trying to proceed on with that. That's why I kept referring to the registration packet and counselor because that was what I was there for. So for my understanding, and what he told me, and also Mr. Close, Mr. Elzey that they no longer have registration forms. Even if they did, they didn't know if I was in their district and even have my transcripts. They didn't have any information regarding me and basically turned me away. Mr. Skidmore did have me sit in the office while he did go behind doors with another gentleman. Because Mr. Skidmore had me under the impression that he was the Vice Principal, that he was the Head Principal at first, then told me he was the vice principal. And then he had me going to the waiting outside. Then he went to a room with another gentleman. Basically that was just false information. Basically just wasting my time, I went into the office. The guy just seemed very impatient and didn't want to hear what I had to say. That's when he called me into the office with Mr. Close and Mr. Elzey and when I got in there, I tried to explain to Mr. Close because he seems more easier going and he seemed like he wouldn't give me the hardest time. When they went into the office, I felt very uncomfortable. I felt targeted. I felt belittled. They made me feel like I was just walking onto a random school

campus like I was lost and like I was crazy. And I was just going to enroll into school. That's when he stated that they didn't have any registration packets or anything like that. And I kept trying to talk with them and try to, you know. I even explained to them, I said, you know, if I you guys think that I'm irritated or I seem mad at you guys, I am not. I'm just very sick. I'm from California, the weather is different. I have a fever so I'm sick right now. They just gave me the hardest time with that. So I was like I'm not getting anywhere. They told me the counselor I would be speaking to isn't even there this week anyways. I just felt there was no reason for me to even stay. I just felt belittled and I was very upset. And I did try to make a call to get in contact with Mr. Fitz??? and he didn't answer. So I did call Sarah Miller because I thought she was the one that was supposed to meet me down there. So I explained to her what was going on and how I was being harassed and belittled and she ended up staying on the phone with me for about an hour. Even with that, she told me to just walk back into the building. I was on the phone there and they were still trying to talk to me and I was just, you know, talking as if I just couldn't hear them. I kind of zoned them out. I had to let her speak to the secretary in the office.

HO: Was that the lady that was there previously?

Quincy: No. It was another much nicer person. She even talked to me about it even though she knew she shouldn't. I don't want to speak on her and get her in any type of trouble that she did, you know, kind of understand what was going on and she was surprised by it and told me to just let it go. She gave me a tour of the campus and she showed me some gargoyles outside and she was trying to make me feel better about the situation because she obviously knew what was going on.

HO: This was a secretary?

Quincy: Yes. You could either go this side or that side. This lady was busy so I went over here.

HO: So Quincy, let's get on to your first day. So did you end up getting registered on that day then?

Quincy: No. I didn't. I got the registration packet, that they claimed to not have, so I ended up coming back the next week and enrolling.

HO: So you are probably registered inaudible and you did get enrolled in some classes. Let me ask you this, did you have other experiences after that time and prior to the dance with Mr. Skidmore?

Quincy: I sure did. First off I want to start by saying that at first Mr. Close showed me a different side of him. At first I was like okay, watch out for these three men. This guy shook my hand and he was very nice to me and Mr. Elzey just had kind of like an attitude every time I would see him. He would turn red in the face and just look at me kind of disgusted and walk away. Mr. Skidmore, he did try to speak to me and stuff like

that but I knew to stay out of his way because of how I was treated when I first enrolled. He would just act weird like he would stand at a distance and kind of follow me throughout the school and kind of wonder what I was doing. This just gave me inaudible to the experience for the whole part. I knew changing in between classes or if I had to go to the office because a lot of times with my attendance, me having to leave for certain appointments. Walking to the hallways and stuff like that, I was just really watching out for him, and I don't really feel like I should have because I am a student and he really didn't make me feel like a student. He made me feel like one day I would just come up to the school and do something destructive. He may be feel like somebody I wasn't basically. I remember one day I went to steps and they came back to school. He and Mrs. Leyde, she and him both followed me from the front of the school all the way to the basketball court on the other side of the school. There's like a skywalk. These people followed me a few flights of stairs and all the way to the other side of school, just following me a while back then they would look away. It's like the most weirdest experience I say ever looking back, noticing somebody following you and they have a delayed look away. It's like why are these people following me. I knew I should stay out of his way. There was once when I was parking my car, he told me to park on the Hospital side and then he pulled me out of class and said I shouldn't park right there. Then he pulled me to his office and said, I know sometimes I can be a dick but I'm really a nice guy and I don't have nothing against you. I know we got off on the wrong foot and stuff like that. So at that point, I thought we hashed things out. Even after that, it was like okay this is a tension releaser but I know I should still stay out of his way. This is just an opportunity for me to speak to him because I am going to be continuing up the school, so I have no choice but to make acquaintances with this guy. You have a really good relationship with this you know this assistant principal.

Unknown: Did you have any discipline history before the dance at Lewis and Clark?

Quincy: No not that I can think of. Attendance was you know commented on about that and asked certain things as to those certain appointments.

HO: So you did have some attendance issues. You had no prior discipline issues?

Quincy: No, I've never been called to the office regarding something.

Dave: This would be a good stopping point

Unknown: I think after the break Sarah Miller can come in

BREAK

Dave: This is the second tape November 16, 2015 Sarah Miller has just joined us sign here and put your job assignment there

HO: Will you please print it so I can have a clean copy?

Dave: So we have that taken care of. It's 9:35.

HO: Mr.Ophardt would you like to have Sarah provides testimony

Mr. Ophardt: Please say your name.

Sarah Miller: Yes. I am Sarah Miller.

Mr. Ophardt: What is your title

Sarah Miller: I am the liaison for Spokane Public Schools also known as the heart program.

Mr. Ophardt: Can you describe what the heart program does?

Sarah Miller: The heart program ensures that the Spokane district is in compliance with the inaudible assistance act in providing support and services to students who are identified as homeless. So we will provide support and services in addition to making sure the district is in compliance with that federal law.

Mr. Ophardt: Can you tell us how you met Quincy Marin?

Sarah Miller: I met Quincy initially over the phone. He had called me. He had just left Lewis and Clark high school. He told me that they would not let him register for school so we were on the phone after that. I did not meet Quincy in person until we met Lisa Renner to register him at Lewis and Clark.

Mr. Ophardt: Can you describe what he told you about registering at Lewis and Clark and trying to register at Lewis and Clark?

Sarah Miller: When Quincy first called, he was extremely upset because he had reported that Lewis and Clark had kicked him out of the school and not allowed him to register. So we spent some time on the phone trying to figure out what's going on because he was really upset. It took me a while to calm him down so I could understand what he was telling me. He said people had met him at the door and were following him around without knowing why he was there. They wouldn't allow him to get registration packet paperwork so I said okay, hold on just a minute. I called Lewis and Clark and I got on the phone with Tracy Van Halderen she is my contact for registering at school her and Jennifer Westfall. I got through to Tracy. I told Tracy that I was sending Quincy back up there to get the registration packet to be able to complete that to register at the school. She said she would look for him and make sure he was there. I called Quincy back and had him walk back through and go directly to Tracy's desk he stated on the phone then that's where the two gentlemen were following him. He was incredibly uncomfortable, didn't identify who those people were because I didn't know who they were. I assumed they were some administrators. Quincy was still pretty agitated at that

point. He met with Tracy, was interacting with Tracy, and kept me on the phone. He asked if I would stay on the phone with him because he was really agitated so I just stayed on the phone. I was filling out paperwork he asked whoever was following him to stay away. He was just trying to fill out the paperwork. We were on the phone for about half an hour to 45 min. through that process. I got the impression that the two gentlemen had left. He said that he was okay with Tracy that he would be okay and we disconnected.

Mr. Ophardt: Are you in the position to know what a typical process for registration would be for a student requesting your services?

Sarah Miller: I assume students just walk to the door and go to the correct office to get the registration packet. Some of them fill out the registration packet right there and some return the packet later or whatever is within their time frame.

Mr. Ophardt: Is there any reason the school would refuse a registration packet to Quincy?

Sarah Miller: Not that I'm aware of unless they had some knowledge that I didn't have prior to that.

Mr. Ophardt: Did you have any more interaction with Quincy other than which you just described?

Sarah Miller: We'd had lots of interactions. Tracy had called me and Quincy had called me with the appointments they had scheduled with Mrs. Renner to register for classes. So I met him at that registration with Mrs. Renner, and we went over what his educational options were. At that point, because coming in he is an older student and would need to be at school for an extended period of time and trying to figure out if he wanted to be in a high school setting or if he wanted to do other program options. Quincy said that he really wanted to be at Lewis and Clark high school and really fought for that for himself. So Mrs. Renner worked on a schedule on the phone with his prior district to try to make sure the credits were right because what Quincy understood his credits to be in with the unofficial transcript that we had were in conflict. So we were trying to figure that out. Mrs. Renner still gave him the full course load because he wanted to start the next day. Since then we have talked on the phone a couple of times I wanted to make sure school was going okay so I checked in with him. He didn't have any problems. The next time I saw Quincy was the Monday following the homecoming dance when he had come in. He was really upset with what happened and not really understanding what was going on.

Mr. Ophardt: You said that Quincy fought to stay at Lewis and Clark. Was there something he was fighting against like Lewis and Clark did want him there?

Sarah Miller: No. He wanted to stay in a high school setting. When Mrs. Renner was looking at the amount of credits he needed to get in the amount of time prior to turning

21 was going to lead him to be 20 years old in the high school setting and really just making sure he understood that he was going to be in classes with students significantly younger than himself. And there were options such as Gateway, the college, On Track Academy and those kinds of things where he would be able to accrue credits faster and be with students more his age. Inaudible 18 years old and still trying to get that. He was not interested in doing that, and at that time, he wanted to meet with Gary Allen. Gary Allen happened to be at the school at that time and we pulled him in. He didn't talk to him at that time. He ended the meeting with Gary Allen later I believe. I'm not sure if they met face-to-face or over the phone. I wasn't a part of that interaction to look at those options more in-depth. At that time, he just really wanted to be in the comprehensive high school instead of one of the alternatives or options that were available.

Mr. Ophardt: I don't have any more questions for you.

Quincy: One of the things that you mentioned because it's been a while and this happened, the part of me going to enroll, I just want to make sure everybody's clear.

Mr. Ophardt: If you're going to say what happened you can say it later.

Quincy: Okay.

HO: Mr. Stevens or Mr. Close?

Mr. Close: You said something to the effect that Quincy had been kicked out of LC when he tried to register.

Sarah: That is what he told me over the telephone.

Mr. Close: Did he say how or why or who?

> Sarah Miller: What my understanding was, that when he went there, that initial time, and this is through the phone call Quincy telling me there are gentlemen there, that had essentially met him at the door asked him where he was going, if he knew where he was going and told him he needed to leave then. But I do know who it was, I don't know where that interaction took place because that was prior to the phone call that I was on. So I don't know who it would've been because I don't think Quincy knew any names at that point to tell me what was going on. I'm sorry I don't know.

HO: Does anyone have any other questions for Sarah Miller at this time?

Quincy: Do you remember me saying that I was followed initially at the office not at the door?

Sarah Miller: My memory does not serve me to say at what point you were being

followed. I do remember you saying I'm being followed. It was my essentially your impression that you were being followed right when you got there and that you were asked, Do you know where you are going because you kept repeating that. And you were like yes, I'm going to register.

Quincy: It was basically the door at the office, inside of the office.

HO: Do you need to recall her or can we dismiss this witness?

Mr. Ophardt: Yes

At this point I think I will ask Quincy to talk about the dance and the events leading up to where the video really starts. At the time the video starts we can call on Mr. Skidmore.

HO: That is fine.

Unknown: Can you describe the night of the dance skip the part about winter date is asking you out and about the dress and stuff this is about what's going on at the dance

Quincy: Okay, prior to the dance?

Unknown: No. at the dance.

Quincy: Okay, I got there and my date texted me that she didn't think she would be coming. We were both under the impression that it was $30 a person. When I got there it was $15 so I text her because I guess she didn't have her money altogether. So I got in the dance, I see Mr. Skidmore he said that I look nice and he seemed happy and stuff. So I shook his hand you know smiling and going on about my business. I remember at first because the reason why I really stayed was because of my friend Chris. She's a girl. Chris, she had a date and she said I could stay with her and her date. And she had a friend and we could meet and get to know each other in the dance. I do have some rhythm dancing. I was dancing, some may say inappropriate or grinding or whatever, there was this kind of music there so I was dancing to it. When I got there first, I was talking to a girl by the name of Julie. And then Julie, she's in my first period class, it was like a meet and greet really and seeing how everyone looked. And everyone looks nice of course and stuff. And then me and Julie you know, Julie was cool. And we were talking and talking and laughing. We took a picture. I took a picture with some other people including TJ. To be honest I don't even know the kid it was a group picture, a picture of someone I did know. He happened to be in that picture. I remember Julie's friends being caddy and stuff like that and attitude. I knew I just needed to leave it alone. I asked Julie what was wrong with her friends. She just said she didn't know and just look this kind of way at them like they were getting on her nerves about it. Basically high school stuff. I'm 18 so I'm just kind of like mature in this situation. So I just kind of like excluded myself out of that situation. And there was a girl in an orange dress. Because my date was not there, for not like, it took her how long ever to get there. So I was dancing with this girl in the orange dress a long time. I

remember Mr. Skidmore watching me dance. And then I stopped dancing, went over to check on Chris to see if her friend had come that could've been my substitute date and Mr. Skidmore kind of followed me. I remember that going over the statements, it kind of opened my eyes back to what happened. Then I remember going back to that girl in the orange dress. I got hot and I told the girl that I got hot. And she was like, yeah it's hot in here. I was like, I'm going to go get some water. I remember I walked out of the gym of the dance floor. I made a left and walked all the way there. Mr. Skidmore he just has this deer affect you how deers kind of like, you know, you just kind of notice. And I turned around and he just kind of turned his head and then like, he just has this slow delay. So he ended up asking me if I was lost, and I was like, no. The water fountain is right here and then I was like, but you are following me and you are watching me. And he was like, what? No. And then I was like, yes you are. And then he was just like, it's my job not just to watch you but everyone here as a chaperone. And I was like yeah, yeah. So I just try to walk away because he was starting to walk closer and stuff and I was just trying to get away from him. So he was like cute, cute, as if we were just best friends. Cute and then I turned around and he shook my hand and was talking about how you know, about we squashed or whatever. So I was like you know, just kind of brushed it off just went back into the dance. That's where I was more concerned about going back to dance with the girl in orange dress. So I went back and danced with her. Then Setiva, I danced with her. And that's when I guess her boyfriend, well her date, the whole time, was getting mad. I danced with her and Kristin. There was a song called the Cupid Shuffle that I didn't know very well. I was kind of like on the side. It's like the dance floor, you're really like moving around the group, so it was like basically shuffling. I remember that I got hot. I went to get some water and then Setiva kind of went from the distance and I guess that's when people were talking to her about the whole TJ thing. So well the whole night, I was under the impression that I was attacked because of TJ being mad that I was dancing with his date. Because I was approached by Setiva's brother, and he was like, "what's this I hear about you know, dancing and grinding on my little sister?" And then you know in my head, this is just a big brother protecting his little sister. I have a little sister. So that he was like, "oh no, I'm not even tripping. This is a dance that's what she's here for. It's just that her date is telling people that he wants to inaudible you." Cuz, that's when she corrected him about TJ not being not being her boyfriend but her date. And we were just basically talking about how he's telling people that he wants to fight me and he's punching walls and stuff. That he's getting like a whole bunch of, group of people, and stuff. So to be honest, at that time I was like, who the fuck is TJ? You know is I didn't even know who this kid was and I was like, why is he going around punching walls? So TJ has come up to me, I don't even know this guy. I don't even know what he looks like. That's when Setiva was just like, forget it, he's not even dancing with me. Why would he be mad that someone else is dancing with me when he's not dancing with me? So I was just like, well I don't even know. So they encouraged me to go back to the dance floor.

HO: Who is they?

Quincy: Setivia and Kristin and the girl in the orange dress. That's when maybe like 10 or 15 min. after that, that's when Kay showed up. Now I wasn't going to say this, but

now cause this is like a serious matter. This girl is like 14 years old. Her mother, whoever dropped her off, and that girl was under the influence. She was drunk. She came to me, and I hugged her and I said you look beautiful. And she was like, oh thank you. And her eyes were inaudible and when she talked I could smell the alcohol on her breath. That's when we kind of got in a, like a back and forth about her, you know showing up like that. And then I was asking her what took her so long what happened. And she was just like, my mom is tripping. So I was like, okay. So we continue to dance. I danced with Setiva and Kay at the same time and then Kristen, all three of them in the same time. So that's when I got hot and went to go get some water. I remember one of the girls from Julie's group came over and was just putting her hands in my face constantly.

Unknown: This is when the video starts right

Quincy: No this is still on the dance floor she just kept coming over. So I like, the fifth time I told her, hey I don't even know you and I don't even know what your deal is. You need to keep your hands out of my face she was like brushed me, basically pushed me out of her way. And she was like, you need to move out of the way before you get your ass whooped. And I was like, no, you need to keep your fuckin hands out of my face. And that's when she left kind of heated and I remained on the dance floor minding my own business dancing and stuff. Then a girl came up to me and was like, hey, if I was you I would leave. That's what some other people were kind of like, talked about it cause you know, like how rumors start, and people are gathering information. So I had to get this girls attention and see what she was talking about. She was just basically saying how there's, you know, girls waiting on me and how people are talking about how they are about to jump me and stuff like that. So Kay was talking about, you know. I was getting worked up and I was like, why are these people trying to fight me? I came here to have a good time. I'm not even messing with nobody. I'm minding my own business dancing with you guys. So that's when we're about to go outside and get some fresh air and that's when I was approached in the hallway by these groups of girls. They were like, you can go before you get your ass whipped. And I was like confused, like what is wrong with you guys? And so Kay, her shoes were in the wrestling room. So that's when she was like, under the influence and couldn't find her stuff. So I remember these girls. They were just talking a whole bunch of shit to me. I was just like, I remember I put out three fingers and was like, who in the fuck are you three? That's when Mr. Skidmore came in and just like separated everything.

Unknown: Is this where the video starts

Quincy: Yes. I would say that's where the video start at. I remember because that's the part of the video you can't see. That's where he's like pushing and shoving me, along with this other girl, that's in a red dress, who was really trying to fight me.

Unknown: We can talk about the parts of the video and the lag time where there's nothing on the on the screen you can say what's happening off the screen okay?

Quincy: Are you guys going to hook that up or something?

Mr. Stevens: So that's the question, Bonnie and Dave? I guess we could all huddle around Mr.Ophardt's computer or if it's not too difficult, we could set it up so we can see it on the screen.

Quincy: I would like to narrate

Unknown: Bonnie can you try to figure that out, Dr. Dave?

Quincy: If it's not a problem, I'd like to narrate.

HO: Yes, I just like to see it on the screen so we are not all huddling around.

HO: This is Bonnie DuCharme, Hearing Officer pausing the tape.

Dave: We're back recording we have the computer set up and we're getting the video. All right when you want to say something we will pause.

Quincy: I would like to say something. This is to me, when I watched this earlier, this is just Mr. Skidmore you know, watching for me.

Unknown: So where are you in the shot?

Unknown: Where are you right now?

Quincy: You see my head is facing where you're watching, across from you.

Unknown: So you're in that room?

Quincy: No, the room is over here.

Mr. Skidmore: No, you're in this foyer though?

Quincy: In what foyer?

Mr. Skidmore: In this area, are you standing in this area near me?

Quincy: No, you're watching me from a distance.

Mr. Skidmore: Are you in the room?

Quincy: I don't know yet.

Unknown: Is that a hallway?

Mr. Skidmore: If you look directly in front of where I'm looking there is about 15 feet and then the entrance to the gym. I can tell you right now, Quincy is standing right there.

Unknown: Okay

Mr. Skidmore: There is discussion taking place as we speak, you can see his head right there.

Unknown: This one right here.

Mr. Skidmore: Yes.

Unknown: Bottom left.

Unknown: Yep

Mr. Skidmore: That is where I stepped in.

Quincy: That is not my head.

Mr. Skidmore: No, that one wasn't, but you can see it.

Mr. Skidmore: So this is the photographer. He is witnessing everything that is going on as we speak.

Quincy: Pause it. This girl right here, her facebook name is Kristi inaudible she is the one, one of the ones, who apologized to me on Facebook. So that's her name. This right here, I don't know what led her, I do not know her. I don't know what led her to jump in my face like that. Her friends obviously sent her. As you can see that girl right there is just like you know, things are getting out of hand. Let me come pull her back. This is me right here, like you know, like come on now. You know, who is this girl? I feel like at this point, right now, he's more focused on me than this student right here, who is actually really trying to get to me and potentially might try to hit me.

Mr. Close: Mrs. Meyer is also present.

Mr. Skidmore: I wish there was audio because right here there's a verbal confrontation that's really escalating between the both of you. All three of you are who, I sent out of the dance.

Quincy: That possibly could be a verbal back-and-forth. I'm not denying that at all, but I will say this, who's Calmer in this situation? I don't think I'm beating my chest at this point.

Unknown: You said the guy on the far right is the photographer?

Mr. Skidmore: Yah.

HO: The man in the plaid.

Unknown: Yah

Quincy: This is me. See where my hand is? This is me trying to let Mr. Skidmore know what's going on. I don't even know her. You know that's my style of talking. I don't even know her. I say that a lot, so I don't even know her and she's the one trying to fight me. And I'm pretty sure, you know, I was letting him know, like are you serious? Because at that point he was telling me how, you know, I was kicked out of the dance for the rest of the night. And then, you know, I was explaining to him, you know, how all of these girls are giving me a hard time.

Unknown: So at this point he's already told you that you're kicked out of the dance.

Mr. Skidmore: I wish there was audio because it was more along the lines of, I don't know these fuckin bitches! I am not going to allow it to happen at the dance.

Quincy: I probably said that.

Mr. Skidmore: Yah.

Unknown: And this guy is just standing there watching?

Quincy: That's the help right there. That's the teacher that intervened.

Unknown: So where are you guys right now? Just off camera?

Unknown: Yah, were are just below here.

Quincy: What's not shown, as this is like, at a certain angle and the kids are watching. What's not shown is the part of the real heated moment which was between the gym and the wrestling room. You know, that's the part where I was trying to get in there and have get Kay her shoes, you know, cause I was her ride home.

Mr. Skidmore: I didn't catch that part about what apparently happened in a heated conversation in the wrestling room. I didn't catch that part.

Mr. Close: Are you guys in the wrestling right now?

Mr. Skidmore: I don't know. I think were still down here off-camera. I'm just trying to get the whole party settled down and I'm telling Quincy he needs to leave because of his disrespect for me and everyone else. I also told the same exact thing to those young ladies who are also equally at fault at that point.

Mr. Close: At some point you will see not a great shot but you will see Quincy and Mrs. Meyer. You will be able to see her.

Mr. Skidmore: I guess my question wasn't answered as far as, what is being said that took place in the wrestling room?

Quincy: What is being said that took place in the wrestling room?

Mr. Close: You said there was an altercation in the wrestling room?

Quincy: Leading to the wrestling room, that's where I went with Kay to go and get her shoes.

Unknown: What is the altercation that you are referring to

Quincy: The altercation is that girl in the red dress trying to get over and inaudible on me.

Unknown: I know that nothing happens for about 30 more seconds does anyone object to me skipping?

Unknown: No

Quincy: That's Kristin.

Mr. Skidmore: Just went in.

Quincy: Can you pause it please. Now Kristin along with others were kind of trying to get it under control. So why, what was going on? Because I really didn't have no type of back up at all. I'm not saying body wise, it's just that I wasn't being heard properly at all. So he knew that Kay came under the influence because they are somewhat friends. So she knew exactly what I was trying to do, assure that Kay was going to get a ride home. I had told Kay to go and get her shoes. She was to under the influence to find them. So that's Kristin going back in there to check on me. So she's going out, I'm pretty sure from what she told me over the phone that she

Mr. Skidmore: Can you pause it please. I would just like to know, you and I are walking out. You finally came with me as we left. That was you and I walking down the stairs.

Quincy: How long did that take me?

Unknown: This video is taking about 2 min.

Quincy: About 2 minutes? Because it seems from statements that I heard. it took forever and I was just uncompliant.

Mr. Skidmore: you came back in.

Quincy: Of course I did because my date was in there.

Mr. Close: That's Mrs. Meyer.

Quincy: His best friend I believe.

Mr. Close: You said you allowed him to come back in to get his date?

Mr. Skidmore: Walt Pegrim is the one that actually allowed that

Quincy: Who is Pegrim?

Mr. Close: He is the officer.

Quincy: Officer Pegrim. The two officers that I spoke to, the resource officers?

HO: Yes.

Mr. Skidmore: Which I went along with. Now I was unaware, I missed the whole part about Kay being under the influence. I was unaware. She didn't even seem intoxicated to me in any way shape or form.

Quincy: Can we pause it right here. Now outside, Mr. Skidmore and Mrs. Leyde came outside. She didn't really say much cause he did. I heard him say, you know, when some people try to intervene staff tried to intervene? He was like, let me handle this. You know, so it probably would've been him in a more better situation. But so he came outside and was just very, you know, provoking me and really making me very upset. I remember I was talking to a resource officer, two of them, and during this time I believe I this might take a pause. He was just saying a whole bunch of stuff and I was upset.

Unknown: Can you give us an example?

Quincy: He was just saying a whole bunch of stuff. I wasn't even, you know, cause I was saying a whole bunch of stuff too.

Unknown: Once you walk outside?

HO: Just a minute. Let Quincy finish.

Quincy: Thank you. Now, cause if I'm talking to two resource officers, cause I didn't want anything to do with him at all at that point. And that's what I mentioned to them. He was speaking to a parent and he still was just provoking. Just talking, saying a whole bunch of stuff for, you know, a reaction. And that's what he got out of me. This grown principal assistant and this 18-year-old student, you know. So I'm outside, and then at

the same time I'm trying to calm myself down and keep my composure. I remember having my hands behind my back against the inaudible so that way, you know, because I was like, you know, fired up. And when I say that I was fired up, I mean not violent but I was fired up. I had a lot of stuff to say. I was a firecracker inaudible at that time. I know that it was Kristin yelling at him. Another student yelling at him also and him saying, don't touch me like that or you will be leaving. Also, and him, just him, you know, just being a kid basically. Being very annoying and very just back and forth. I remember a student, I think her name was Lilly she came over because Kristin and Setiva got through to her and told her what was going on, This girl was the one who put her hands in my face she came over to me and apologized. We both explained to each other what was going on. She said that she was under the impression of, whatever. And in my head, I was just like, well, the only thing I was tripping about is you know, the fact that you put your hands in my face, coming by me disrespecting me. She was just, you know, she thought that I was, you know, targeting her friend or something. And I said no, that's not the case. This girl dropped her heels to free her hands and she shook my hand and she went on about her business. He continued to talk and provoke me and say stuff to get to me. For example, I can't even really give a good example because I can't even think back to it because I was just so worked up. I just can remember that I can basically hear myself more that I couldn't really hear him because I was not trying to pay attention.

HO: So Quincy let's give Mr. Skidmore the chance to respond.

Mr. Skidmore: At this point we still had involved the officers. They were outside doing a sweep as we walked down the stairs and out the door. The first time we met up with officer Pegrim, what I did for the next several minutes was explain to officer Pegrim what was going on as Quincy was right here in my ear and in officer Pegrim's ear trying to refute the whole thing. I had just said that Quincy, you need to step back we are talking. I'm trying to get the officer involved to understand what the situation was. So I really feel like you are taking what I said to him and describing the situation as me personally attacking you and that's not at all what was taking place. I was telling the officer what took place what was going on, and I don't even recall speaking with Kristin. I don't recall speaking with Kristin whatsoever. I didn't say you're going to leave. This is all about Quincy and why Quincy has not left the dance yet. And that's why I got those officers involved. Because you puffed yourself out on the sidewalk, and you were not going to leave. You made it very clear you were not going to leave. Several times referring to me from about 10 feet away as that Mother Fucker. Several times. Several times. That's what led to the emergency expulsion.

Unknown: Okay. Now don't we? We do see inaudible escort Quincy back up here. I don't know if you'd even gone outside yet.

Quincy: We kind of

Unknown: We'll see the video later.

Quincy I would like to say, before we do resume, that he just said it was all about Quincy. It really was all about me, and I felt targeted for that. And I don't feel like I turned anything, you know, from him speaking to a resource officer that it being towards me. Why are you speaking to a resource officer when I'm speaking to them? When you're supposed to be speaking to a parent. Hearing from talking face-to-face with a parent to overhearing my conversation, butting in, You know, making everything difficult for me. And then that's, you know, he was a ways, so for him to say that I was in his face or by him or something like that. I was over here in the corner. In the corner, in front of the doors and he was kind of over here talking to the parent. The parent was concerned about what was going on so, you know, him saying that I said that he was talking to Kristen or whoever. He was talking to her mother I think, you know, that is what I just said just to point that out.

Unknown: There is Kristin there.

Quincy: Upset about the whole thing. Talking to these guys cause they're ignoring them. So can we pause it right here please? I was, you know, from my understanding, I was outraged, un-calm, beating on my chest almost, chest puffed up, during this whole thing or something like that and being very disrespectful to Mr. Skidmore. But here we are walking together.

Mr. Skidmore: I didn't say that you postured necessarily, except for in the incident and then, outside as you were leaving. So here yah you are fine.

Quincy: So I'm fine inside but outside I was disrespectful and outraged and you know, out of my character?

Mr. Skidmore: I never used the term outrage.

Quincy: Well, whatever. That may be, but that's what I was, I was two different people.

Mr. Skidmore: I was allowing you to come back inside at this point, I don't remember exactly where we were at.

Quincy: Do you remember what I came inside for?

Mr. Skidmore: To get shoes, or to get Kay. I don't remember exactly.

Quincy: Yes, because from my understanding, I was kicked out because the whole way of me standing, was because I knew my date was under the influence. Was she supposed to be? Did I know she was to arrive like that? No, I did not. She came, her parent who you guys called. She dropped her off like that. I was making sure she was like, you know, okay. So that's the only reason why I came back in there.

HO: So officer Pegrim

Quincy: So this is me still trying to talk to him. Could you rewind that please a little bit more? Okay, so as we are walking in, this is me explaining to him, you know, what's going on. So I guess like some students are still, you know, rowdy and trying to get towards me. So that's him kind of pushing through. Then as you can see, her right there. There is me going in and those two, that's Julie right there. Now can I pause please? Now Julie from some statements that I have read, they say that I was harassing her and that she didn't want to dance with me. That's the reason why they were in my face and stuff like that. I have a picture if you guys would like to see it. The picture is of me. I have my hand around her waist and she is smiling, and I just took like a pose for the picture. No shape or form in that picture she looked unhappy, or if I forced her to anything like that or anything unruly or just weird, whatever was said.

Mr. Skidmore: At this point, I had no idea what led up to any of this stuff.

Mr. Stevens: I'm wondering if this is relevant or if we even need to respond. I'm not thinking it is.

HO: Okay.

Mr. Ophardt: Quincy was responding to a witness statement.

Quincy: I thought it was relevant.

Unknown: Taylor, if you feel like you want to respond. It would be nice to know what you are going to say.

Mr. Skidmore: I just wanted to speak on just the. This is really the last thing I want to say: is that any student who is using that language, who is being disrespectful towards anyone, whether it's a student or staff, I'm going to ask them to leave. And so the continuation of you not leaving, and not following instructions, is what led to this whole thing getting to where it got. You refused to follow instruction.

Quincy: Oh, okay.

Inaudible

Unknown: I wanted to hear it.

Unknown: That was last thing you wanted to say?

Mr. Skidmore: On that part, yah.

Quincy: That's the girl in the red dress.

Inaudible

Unknown: No, that's Jennifer Westfall's husband.

Unknown: Now can you pause right there?

Quincy: I love how you guys handle that. You and Mr. Brazil, how this girl could just walk out of there without being harassed and no one in her ear provoking her. She could just walk outside. That's very nice of you guys.

Unknown: That's Kay under the influence.

HO: The red dress.

Quincy: It's like a burnt orange. She couldn't find her shoes. That's her walking with no shoes on. Now they escorted me back to go look for Kay.

HO: You still haven't found her yet

Quincy: She went back in. She told me that Mr. Skidmore told her that I left her there. That's why she stayed at the dance. I did know that is she was under the influence. Now I was in the wrestling room with one of the resource officers trying to look for the girl's shoes and to see if she was in there. She wasn't in there, so one of them went to the dance to go look for her because they didn't want me in the dance because it wasn't just one girl trying to fight me, it was a group of them that went back into the dance. So that's where they were trying to keep me from. Eventually, I got escorted by the both of them and found Kay. That's the girl that I danced with. See that pink.

HO: Yes.

Quincy: That's the girl I was dancing with the majority of the time. I guess she was trying to see if I was okay. Here I am talking with this resource officer about what happened and I was talking about inaudible also. That's me waiting for Kay and I'm like so pissed.

HO: Where were you going at that time when we see you leave?

Quincy: I was going to go get Kay.

Multiple voices inaudible

Quincy: Kay was in the dance. People were trying to talk to her about what happened, you know, being nosy. And that's the girl I danced with multiple times inaudible.

Unknown: In the pink.

Quincy: Yes. Now that girl just walked by in the video, she inaudible these two came to check on me and I guess inaudible Kay couldn't find her shoes. She wasn't making it easy I didn't even know the type of shoes she even wore because she just popped up in

the dance.

HO: You are still with the resource officer at that time, weren't you?

Unknown: Inaudible

Quincy: No, that's Kay. That's Kay right there. I got on her case about her being drunk and stuff but they didn't hear me. That's why she walked off like that because I got on her case about taking so long, cause I'm like. You see them over here harassing me and stuff? Why are you taking so long? And she told me, they told her, that I left her.

Unknown: Anything that anyone needs to revisit from the video?

HO: How are we doing on the tape?

Quincy: Can you let us know what happened after the video stopped?

Quincy: So me and Kay we go outside and then that's when, you know, we inaudible. I don't have anything to say to Mr. Skidmore. Him and Mrs. I can't remember her name.

Mr. Close: Leyde.

Quincy: Mrs. Leyde. They followed me from the front entrance. Well basically from the wrestling room all the way down the street, for me to cross the street. And that's when he kept saying like stupid, stupid, you know, aggravating stuff to me. And then I'm pretty sure I was cussing and telling him to leave me the fuck alone. That's when he proceeded to just keep following me finding stuff to throw at me. So I'm pretty sure him and Mrs. Leyde talked about how, you know, they were going to suspend expel me. Basically, what he stated was, "Based on my actions tonight, I'm going to be suspended expelled." And I was like, I don't give a fuck. And then I was, like, he just coming at me with stuff. And so that's when I turned around. Did I get in his face? No, because I know myself very well. I'm not going to get in anybody's face unless I'm about to do something. So I turned around and I was like, you know, why is he was throwing stuff at me? And I was like, you know what? I'm going to go to school board and I'm going to basically let them know about you putting your hands on me. Not in that exact style of words, but that's what I stated to him. And I didn't think that came off as a threat because I turned around and kept walking with Kay to get into my car. When we got into my car, me and Kay talked about her being under the influence. I was like Kay, look, next time you need to bring your ass home because, you know, I could've went to jail or anything. I was like, you know, I will say, you know, how cussing and how I was talking to her. I was like, these bitches up here was trying to, you know, fight me and that's exactly how I said it to her. She was like, "Quincy, Quincy. I know, but they told me that you had already left." And then she was like trying to inaudible kind of like zoning off and I was like so what were you going to do? Were you going to call your mom to come pick you up or something? She was like, no. And then she was like, I already told you, I coulda, you know, I was supposed to come in a limo. So I don't know if I was like her

last chance, I don't know. She went on about her not arriving in a limo, whatever or however that even came about, but she was like, what are we going to do? I was like, I was like, do have the address to the after party? And then she was like, no. I don't have any of that and then she was like where are we going to go? And I was like, you can't go to (name of club where you can get in at 18) inaudible She was like, yah. And then I said, what are you going to do? I was like, can I drop you off inaudible? And I was like, I really want to go home anyways. This is in my car and then she looked at me. And she was like, "Quincy, I don't want to leave you." And I just looked at her, and then she looked at me, and I started laughing. In my head, I was like this girl is like drunk or something. And I was like you can go back and ride in the limo. I'm not tripping, I'm just making sure you got a ride home. And then I was like, I thought I was your ride home. And she was like, "Quincy you are my ride." And then I was like, do you want to go back to the dance or not?

Tape 2 ends

Dave: We are back after that brief pause this is tape number three.

Quincy: So basically I drove correctly in my car inaudible the parking spot. I went around, went right. It was like a one-way. Then went left, then turned around and dropped her off in the front. Did I drive crazy? No. And how I know for sure, I didn't drive us crazy is that my car has traction control for the snow. So my car will stop my wheels from spinning in a speed off. So, you know, I take off at like not as fast, even though I do have like a sports car. So I just dropped her off like that, and I went home. I didn't even want to go to (name of club where you can get in at 18) or anyplace else. I was extremely mad.

HO: So you dropped her off in the front of the building?

Quincy: In the front, yes. In the front of the dance which is like the other side of the school.

Mr. Ophardt: You said Quincy's emergency expelled suspension. You made the decision right at the beginning of that altercation with the girls that he was being emergency expelled because of foul language is that correct?

Mr. Skidmore: No. I sent him home because of the language. I didn't issue an emergency expulsion until we were out on the sidewalk.

Inaudible

Mr. Skidmore: It took place when I got Mrs. Leyde involved and explained to her what was going on. Her and I came to the agreement that he could not come back on Monday. Until we sort this thing out. Find out what's going on exactly so the emergency expulsion was our option. And so I don't understand the whole story where we were outside and I kept egging him on saying things. As we walked out those doors and he

walked on the sidewalk, and I wanted him to hear me say, "Quincy, you are not welcome back here Monday. You're not too contact the school or come to the school. You are emergency expelled." That's when he turned around and did get in my face and said, "Touch me again and see what happens." So I said okay. And that's it. It took place outside in the last literally 30 seconds. It didn't take long for him to finally leave.

Mr. Ophardt: And then the emergency expulsion was converted to another expulsion. Were you part of the investigation that led to that?

Mr. Skidmore: Yes, somewhat. I gave my statement, but I did participate. But it wasn't my decision to. I'm not really in a position anyways.

Mr. Ophardt: Your understanding is that expulsion was for threat to staff?

Mr. Skidmore: Yes, and threat to myself and the things he was saying. He was sent out of the dance because of the altercation inside. It was what took place afterwards, and the things that he was saying to me, in the way he was responding to me, that he was being expelled.

Mr. Ophardt: So earlier today you said you felt like you were kind of being threatened. You felt that because of posturing?

Skidmore: That took place at the very end. The threatening I was referring to, before the emergency expulsion, that I talked to Ms. Leyde about was the continual, "that mother fucker, that mother fucker," looking at me and saying "that mother fucker" in a posturous way even though he was standing 7 to 10 feet away or whatever. The most threatened I felt was at the end, when he came, when he turned around at me and said, "See what happens next time."

Mr. Ophardt: Today you said, "The next time you touch me see what happens?"

Skidmore: Something to that effect.

Mr. Ophardt: In your previous statement you made to the school administration, you said, the next time, you said the next time I put my hands on you, you will do something about it?

Skidmore: Yes.

Mr. Ophardt: Theresa Myers said, that what he said was that, "I'm going to the school board, you're going to regret putting your hands on me?" Do you remember him saying that I'm going to the school board before he said, next time you put your hands on me you're going to regret that?

Mr. Skidmore: He did say both of those things, in what order I couldn't tell you.

Mr. Ophardt: Quincy did you have a question for him?

Quincy: You know what? I'm just going to go ahead and finish. That way I can get pieces of information.

Unknown: I've got nothing else.

Quincy: Okay, he told me I was emergency expelled before and he continued following me. He knowed the situation and he knowed that I was referring to him as mother fucker or anything like that, which is, I don't even cuss like that. If anything, I'm going to say bitch, you know, and that's my style of language. If anything, I'm going to be like, "bitch back your ass up" or something like that. And I'm just, to give you an example, not to just cuss but just to give you guys an example of how I do use my language. But he did tell me I was suspended expelled before I even told him about the school board. They, he followed me he could've let Mrs. Leyde. And she was just following him. She wasn't even saying much to me. He could have let her tell me that, or anything like, that I couldn't come to school on Monday. That he continued to follow me even after he told me that, you know, I told him about how he put his hands on me and how I was going to go to the school board. He was like, "For what?" You know, and then I was like, you put your hands on me. And then, you know, he just continued to talk after that. Don't come to school on Monday, you know, simple stuff like that to get underneath my skin. Being childish and that's, you know, as I walked away, I was being followed by the both of them. If that makes sense.

HO: So does either party have anything more for Mr. Skidmore?

Unknown: No

Mr. Stevens: Can I take 30 seconds and while Taylor out?

HO: Sure.

Dave: I'm going to stop the tape

HO: Are we ready to resume?

Dave: Yes, the tape is back on.

Mr. Ophardt: I just what to make sure we talk about the evidence packet I'm presenting. Page 1 is a statement from Quincy saying, basically saying the same things he said today that I need to talk about but I want to present it. Page 2, there is a statement from Kristin Rogers. Quincy has referred to in this testimony today. And number three is a statement from Setiva Rogers, Kristin's sister, we also referred to today. Number four is notes from Lisa Renner on the day she registered Quincy. I want to point out that, she notes, "that he will need another placement in order to finish out this year."

Unknown: Excuse me what page are you one?

HO: It's really not page four, it's on the top.

Unknown: Top right.

Mr. Ophardt: Number five is a records request from my office, from Quincy's old school districts and his last school Elm High School, attendance, discipline, special ed records. No special ed and and no discipline in there. That's all of that evidence.

Dave: What school was that.

Unknown: Elm High School in the LA area.

Quincy: No, it was Fresno.

Dave: He was in the neighborhood high school.

Quincy: 12 Washington Union is the base high school. It's like a traditional high school such as like NC, Mead High School. Like Mead alternative but I don't judge or anything but I know mead alternative, you have to do a drug test. So it's more like a credit home study kind of but you have your choice of going home study or you have your choice of coming into school every day. So it's like a double option school I would say.

Unknown: So I believe this will be my last question. It is for Mr.Close. Did you email Dr. Crump here on October 23rd referring to Quincy to get him to Gateway, he would not be returning to LC so whatever needs to be done?

Mr. Close: Yes.

Unknown: If Quincy doesn't have any other questions or any other statements for anyone I would like to move to closing.

Quincy: When was this date?

Dave: October 23rd, a few days after the dance.

Quincy: So before I was officially expelled, you guys already came up with a game plan for the situation?

Mr. Close: Yes, we were in the process of doing an investigation into your actions.

Quincy: So I would like to say that, just like a statement in the beginning, the enrollment, the difficulties I had to face with that. As you can see the difficulty, you know, staying in the school as they investigated this whole thing. How soon they came up with the plan for me to go to Gateway, not even knowing about something I wanted to do cause I

never spoke to him. About him, Gateway or anything else like that. It's, I just kind of wanted to know where did you guys get that from?

Mr. Close: inaudible I called Dr. Crump and we made the decision. We were going to go forward with the emergency expulsion. As far as Gateway, I got that in, part because after checking with your credits inaudible Lisa Renner. You were kind of heading in that direction anyway because you thought you were getting your credits coming from California that didn't materialize. In fact, my understanding was that the schedule was developed for you at Lewis and Clark was dependent upon those credits. that you thought you were going to get coming. which they did not. So that, so then, that kind of set it back a little bit.

Quincy: But here's the thing. When school started, school, this school year from Fresno high school, I was so determined to get down here and go to public school for better opportunities. I did my work fast so my teacher couldn't count those credits because I didn't finish maybe till around this time. Each credit is worth 15 hours so that's how they calculated into the system. So I got down here, she could only give me, you know, what those hours, you know, implied instead of giving them full because she obviously couldn't do that. And that was it to my understanding or it would've stayed. Now what I'm trying to get is, how did you guys come up with a game plan so fast? It feels like a motive. I understand you talked to Dr. Crump. You spoke to inaudible. How did that come about? You guys just looked at my credits and attendance and just said, okay let's have him go to Gateway or that alternative, Open Doors?

Mr. Close: It was you being expelled. Where does he go? We need to find a place for him to go.

Quincy: Right. So that initial thing is key because I remember, you know, being talked to several times about me going to Gateway or about me going to Running Start. So with that, I'm trying to figure out because I feel, you know, with me having difficulty enrolling and that's what you guys, you kind of educating me about. Then I kind of remember that you guys told me about a Gateway alternative so this is what you guys came up with that fast?

Mr. Close: Yes that's kind of a standard thing when somebody comes in with your age and your lack of credits. We put all the options on the table.

Quincy: Okay, I just wanted to.

HO? Clarify that?

Quincy: Yes.

Dave: If I could step in for a second for clarification. I thought when you and I first talked, you had talked to Lisa Renner about going to Gateway or Open Doors.

Quincy: Yes.

Dave: Now this was before I even talked to them. You told me you had talked to Lisa and that was one of the options you were talking about.

Quincy: Yes, that is true. What I'm trying to. Basically, I feel pushed, you know, because I had the chance of finishing out the school year and starting sometime next year in January. So that's why I'm asking so many questions.

Mr. Ophardt: I think the school will do their closing, and then I will finish with my closing.

Mr. Stevens: Sure

Unknown: Do you have any rebuttal?

Mr. Close: I did want to get some clarification. You said that the one girl who was under the influence, none of the adults working at the dance got that impression. You said that her mother dropped her off, and I'm finding it really curious that a parent would drop off a drunk child at the dance.

Quincy: That's something you'll have to talk to her parents about.

Mr. Close: You're talking about her conversations of what you said with Mr. Skidmore and others yet, you also you say you can't remember what was said because "I was so worked up, sometimes you can, sometimes you can't."

Quincy: Sometimes I can and sometimes I can't?

Mr. Close: You said this occurred and this occurred and then

Mr. Stevens: Why don't we stop Dan?

Mr. Stevens: Can we take 30 seconds out here I think were ready for closing.

Unknown: Yes.

Unknown: We're going to take a little bit longer break than 30 seconds to go feed meters and we will reengage.

Dave: It is now 10:56 on November 16th and the recorder is back on.

HO: Mr Ophardt?

Unknown: I believe inaudible.

Mr. Ophardt: So again, Lewis and Clark, this was initially an emergency expulsion after an investigation into expulsion. Some of the issues I kind of wanted to rebut was when Quincy said he came to register he felt like he was singled out or targeted or whatnot.
Mr. Close: Quincy, my recollection of that, I got involved on the appeal and was that you were quite demanding about getting registered. Mr. Skidmore got involved because you were being kind of argumentative with the secretaries. It is true we did not have a packet at that time. We did since get one put together, and I think if you recall, I actually called down and got a copy of your transcripts that day inaudible. Mrs. Renner finished your registration. I would note that none of the adults who had different vantage points throughout the incident heard or saw Mr. Skidmore doing anything inappropriate. They didn't hear him swearing or hear him pushing, He admitted that he was out to separate the two and that was also visible on the tape. You had said that you get so worked up you can't remember certain things. You said your date had been drinking but you didn't see that. Lewis and Clark hasn't worked for you. I would hope they would get a place where you will be successful I just don't see Lewis and Clarke as being option.

Unknown: You done?

Mr. Close: I'm done.

Mr. Ophardt: So we're here today for an expulsion hearing because Quincy was expelled. For about three hours now, we haven't heard a clear reason why Quincy was expelled. On the notice before the expulsion, it said that the staff on the notice for emergency expulsion was threatened. We had various versions of what a threat to staff may have been. The clearest and longest was from Tracy Leyde. That said, she backed up her statement that she made previous from Mr. close that said, Quincy said, near the end of the night on the street, I'm going to the school board. I didn't like how you put your hands on me, you're going to regret putting your hands on me. Now that is a threat. A threat that Quincy will go to the school board. It's not a threat to push Mr. Skidmore. It's not a threat to hit Mr. Skidmore. It is not a threat to harm him at all, other than through legal processes that he realized he had. It's a little different that he realized he had because we're not at the school board. We are here now. That's not an expellable offense. That's not a disciplinable offense whatsoever, to threaten to use his legal rights. We weren't told of any other threat today. With many witnesses and many more interviews that Lewis Clark did besides what they presented today. And in none of that was there a clear threat that Quincy made. We heard that there may have been posturing. We didn't see posturing on video. We saw Quincy calm. We saw him collected. We saw him with two resource officers standing with him calmly, not putting him in handcuffs, and making sure that he got in the school right away. We didn't see anyone looking fearful. We saw there was definitely an altercation at the dance. Quincy described it as girls upset with him and getting in his face. We definitely saw people upset and people shouting and we heard that there was a lot of bad language. With Quincy's testimony today, we can certainly believe there was a lot of bad language. There was no threat to staff. Quincy has been out of school now for a month for a threat to staff that we have no evidence of happening. Quincy has described how he felt from the day he walked into Lewis and Clark. We have his theory as to why he was

emergency expelled. We have Mr. Close saying just now that Lewis and Clark wasn't easy for him. We have what Ms. Renner said from the very first day she registered Quincy,that he is going to have to find another placement for the year. Now it might not have been a fit for Quincy to be at Lewis and Clark, and it might continue not to be a fit, but we have now a discipline history for Quincy that is just one note for a threat to staff for expulsion. There is nothing previous that anyone has found in his discipline history at Lewis and Clark or in California. And that's not the way to find another program for a student that might not be the best fit for a program. It's not through an expulsion that's going to last with him for wherever he goes from here. It's going to say some threat to staff and anyone who sees it is going to think that Quincy is a person that he is not. So there is no reason to uphold an expulsion, no reason to uphold an emergency expulsion for threat to staff. There may have been a reason to have emergency expulsion to figure out what happened that night. We heard there was a lot that happened as Quincy described it. It was like a soap opera. I understand that it had to be investigated but to even serve a full 10 days of an emergency expulsion for what happened, for what seems to have happened from everyone who saw what happened, there is no reason to even be out for 10 days. There was no threat to staff that was validated by any testimony today or any investigation that was documented previously. So I would ask that the expulsion be removed and terminated, that Quincy be able to return to Lewis and Clark and go through their program inaudible a more appropriate program for him to be in for the rest of the year, and that the expulsion be removed from his record and the emergency expulsion be changed in the terminology of what it is because it was not a threat to staff. I will leave that to whatever the investigation should have been for a student argument but a threat to staff should not be on his record.

HO: Quincy do you have any last closing statements?

Quincy: Yes, I would just like to add that I went intentions with kind. With just a great attitude because when I meet people I always have a smile on my face. So I know that when I went to Lewis and Clark I was not met at the door and I went in there calm, collected. I knew what I was there for a registration packet. I was denied that. I felt belittled, harassed, very uncomfortable. I felt a little bad about myself like, you know, what am I wearing? Clothes you know are the clothes from where I am from, not up to date down here or something. I just had many thoughts with what was going on and to be denied a registration packet and have to get on the phone maybe 10 minutes 15 minutes later proceeding to me having to leave the campus because there was no point of me being there. Being on the phone with Sarah Miller and then having this educated women talk on the phone to on office secretary and then finding out that they do have registration forms. You know how do you expect me to feel as a person, not just as a student just trying to enroll in school but as a person, you know? With that being said, after that I am going to school. I always came to school dressed well; respectful to others. I always had a smile on my face; somewhat kind of popular. One of the reasons why this girl called me and asked me to go to the Home Coming with her, and I had no disciplinary faults at school. Was never called into the office because of an incident or anything like that, never got into in it with any of my teachers, attendance was coming from California. There are some things, I have to settle down. So to my best reach I did

get the majority of them removed whether it's from a, you know, whoever not wanting to but overall I was a good student at Lewis and Clark leading up to that night. You know, although Kay, there is no evidence implying that she was drunk, that she showed up under the influence, and why would her mother you know drop her off like that. That is really none of my business, and I don't have anything to do with that. I just know she showed up like that, so that doesn't really have anything to do with anything being a threat or anything pertaining to that night. I was approached by some kids, you know, some fellow class students about some jealousy stuff, you know, and that turned into a big. It started from students, back to this teacher, that I already knew didn't like me from the jump start, you know. So it went from an altercation with students to just me and Mr. Skidmore. Me and the students, we talk on Facebook and they ask me all the time, when am I coming back to school. And when I say I am kind of popular, I got students that I don't even know, I just recognize their faces from school asking me when am I coming back to school. This went from students having an altercation, I could have went to school Monday morning and we could have all gone to the office and we could have had this hashed out. We already had it hashed out by Sunday you know. So to be expelled, I really feel like, that it is above and beyond. Even me being expelled for 10 days, it didn't take that long for an investigation, you know. And no physical threat as seen in the video, body language posture all of that. Basically, I wouldn't say stereotype profile as a beast, you know. This whole time, you know, we did nothing but me waiting on this exact meeting right here. I was profiled as a beast, basically beating on my chest, acting out and just outraged, you know. Just somebody that I wasn't and looking at the video tape seeing how calm I was, and seeing how this girl was way in my face, it just really, is just like, wow! Are you guys serious, you know? So Lewis and Clark may not be the school for me, and I don't think I want to go back there cause I already know what their intentions are. It wouldn't be the best choice for me to go back there, but I have been out of school for about month or so, and I am like going Open Doors? I don't want to be at a school where kids that are abusing drugs or anything like that. Some people look at me and say that I am healthy, and I know for a fact that I am smart. I don't want to be in a school like that. I feel like I should be able to go to a traditional high school and finish, instead of having to go to an alternative and, you know. I don't feel like I deserve this consequence.

HO: Ok that is it for either party so this concludes this hearing. I will make my ruling and get that information to Dr. Dave Crump by tomorrow and you can distribute that to all parties. Thank you everyone.

Appendix I:

Letter from Attorney Dan Ophardt Requesting a Hearing to Contest Student's Expulsion, 11-4-15 (CP 103-105)

Advocacy for Youth

November 4, 2015

Via Regular Mail and Facsimile

Spokane Public Schools
C/O: Greg Stevens
Stevens Clay
Paulsen Center
421 W. Riverside Ave.
Suite 1575
Spokane, WA 99201
Fax: 509-623-2131

Re: **Marin, Quincy (DOB: 12/01/96); Request for Expulsion Hearing**

Dear Mr. Stevens:

TeamChild is representing Quincy Marin in his request for a hearing to contest his expulsion from Lewis and Clark High School. Because it was unclear whether you are representing the District on this matter, I am also copying Dr. Shelley Redinger on this letter.

Quincy is a homeless youth served by Spokane Public Schools' HEART program. Quincy was emergency expelled on October 19, 2015, but he received no written notice of that emergency expulsion at the time. By requesting his own records from the District, Quincy found out that the alleged reason for his emergency expulsion was a threat to staff. On October 27, 2015, Quincy received notice that this emergency expulsion had been converted to an expulsion for the remainder of the 2015-16 school year.

Pursuant to Washington Administrative Code 392-400-280, Quincy made an oral and written request for an expulsion hearing to Dr. David Crump on October 29, 2015. Pursuant to WAC 392-400-285, this hearing should have commenced within the third school business day after the request was made on October 29, 2015. However, Quincy has not received any response to that request. I am now renewing his request and ask that the hearing be scheduled by November 13, 2015.

Offices in King • Pierce • Snohomish • Spokane • Yakima Counties
Spokane County Office: 1704 W. Broadway, Spokane, WA 99201 (509) 323-1166 Fax (509) 232-3051 • www.teamchild.org

Quincy denies threatening staff or anyone else. He has a very detailed account of feeling racially profiled and targeted by Mr. Taylor Skidmore, Principal Assistant at Lewis and Clark High School, from the day he walked into Lewis and Clark's office to ask for an enrollment packet. According to Quincy, instead of welcoming Quincy and giving him the enrollment packet that Quincy was legally entitled to, Mr. Skidmore berated Quincy about his appearance. It is Quincy's understanding that it was Mr. Skidmore he allegedly threatened at a homecoming dance. It is also Quincy's understanding that Mr. Skidmore is the only witness who accused him of a threat, despite there being many students around, and that Mr. Skidmore was in charge of the investigation resulting in Quincy's expulsion. Quincy has also been told by students at Lewis and Clark High School that Mr. Skidmore has slandered him to students who wanted to defend him, telling them that Quincy would rape them if they spent any more time with him.

Quincy's account of the way he was treated by Mr. Skidmore since the day he started school is extremely disturbing. As a homeless, parentless student of color, Quincy is one of Spokane Public Schools' most vulnerable students. Quincy's account details Lewis and Clark administrators discriminating against him over the course of a month before kicking him out of school without reason. Quincy is an impressive young man who has had to grow up before most his age. Against all odds, he wants to graduate high school and attend college. To hear how he was treated by Lewis and Clark High School since moving to Spokane this year is extremely disappointing and embarrassing for our community. We are recommending that he also contact the American Civil Liberties Union for additional legal advocacy.

In connection with our request for a discipline hearing, please provide me with the following at your earliest convenience:

1. Any records generated as a result of the alleged incident leading to the suspension, including but not limited to, video tape surveillance, witness statements, investigation reports, and discipline notices;

2. A list of all witnesses Lewis and Clark High School expects to call at the hearing;

3. All logs, notes, e-mails, and informal or formal working file entries from Quincy's teachers and Lewis and Clark High School staff concerning Quincy's behavior and academic progress during the current school year; and

4. Any reports produced by school resource officers at Lewis and Clark High School concerning Quincy.

Please feel free to contact us prior to this hearing if you feel that we can work together to find a resolution to Quincy's exclusion that will meet his educational needs. I may be reached at 509-323-1166 to discuss the contents of this letter.

Sincerely,

Daniel Ophardt
Staff Attorney

Cc: Quincy Marin; Dr. Shelley Redinger

Offices in King ♦ Pierce ♦ Snohomish ♦ Spokane ♦ Yakima Counties
Spokane County Office: 1704 W. Broadway, Spokane, WA 99201 (509) 323-1166 Fax (509) 232-3051 ♦ www.teamchild.org

Appendix J:
Phone Call Made to Student (CP 106)

10/29/15 Phone call made witness by Pete Elzey

Quincy

This is Mr. Close calling to let you know we have mailed you a letter confirming your expulsion.

You should receive that in the next few days.

It is my understanding that have already met with Mr. Gary Allen and discussed the Open Doors and Gateway programs. Those are options I strongly recommend you pursue in order to graduate this year.

Mr. Allen has indicated to me that he has given you all the information on how to access both programs.

I believe you also are aware of an orientation program this next Tuesday, November 3 at 4pm for the Gateway program and Next Wednesday the 4th at 9am for the Open Doors program. You will want to make sure you attend those so you can get started ASAP.

If you need clarification you can call Mr. Allen at 354-7434.

Appendix K:

Notice of Disciplinary Action Emergency Expulsion, 10-20-15 (CP 107)

Spokane Public Schools
excellence for everyone

Notice of Disciplinary Action
Emergency Expulsion

Lewis and Clark High School
509-354-7000

To the Parent/Guardian of: Quincy R Marin
32 W Pacific Av
Spokane WA 99201

Date of Incident: 10/19/2015
Date of Parent Notification: 10/19/2015
Home Phone: 559-800-6689
DOB: 12/1/1996
Grade: 12
IEP: No
504: No Ethnicity: Multiracial

This is to inform you that in accordance with Spokane Public Schools Policy No. 3200, Student Rights and Responsibilities, I will impose the following disciplinary action.

Emergency Expulsion:
To continue until rescinded by superintendent/designee, or until revised or modified by hearing procedure. Student may not remain in school during this period. Emergency Expulsion means there is good and sufficient reason to believe the student's presence poses an immediate and continuing danger to the student, other students, school personnel, or an immediate and continuing threat of substantial disruption of the educational process.

The reason for this action is: Threat to Staff

Violation of Policy: 3200
If you have any questions, you may contact the school between 8:00 AM and 3:00 PM, Monday through Friday

---

APPLICATION FOR READMISSION: **For Re-entry conference, call your school office**

Any student who has been suspended/expelled may make application for readmission at any time. Requests for readmission to the school from which the student was suspended/expelled must be made in writing to Student Services. If the student wishes readmission to another school, application in writing must be made to the grade level Coordinator of Student Services. For information as to the content of such application, the student may contact the school, Student Services, or may consult Policy 3200.

HEARING RIGHTS:

You are entitled to a hearing on this matter. Request for a hearing must be received by the 3rd school day after receipt of this notice.

Purpose of Hearing: To determine if the disciplinary action is supported by the evidence.

How to Request a Hearing: within the time limitations set forth above, a written request for a hearing must be made by the parent/student to the Student Services Department, Spokane Public Schools, 200 N. Bernard Street, Spokane, WA 99201. The request should state whether the student plans to have legal counsel present at the hearing. The hearing will take place within three school days after receipt of the request. If a hearing is not requested within the time limits specified above, the district will deem the student or parent to have waived hearing rights and the proposed disciplinary action will be imposed.

Pre-Hearing & Hearing Process: The Student and parent have the right to (a) inspect in advance of the hearing, any documentary or other physical evidence the school district will use at the hearing; (b) have their legal counsel present witnesses and/or evidence. The school has a right to inspect in advance any documentary or other physical evidence the student plans to use at the hearing.

Appeals from hearing authority's decision are governed by Spokane Schools Policy 3200.

NOTE: The information contained in this notice of disciplinary action is a synopsis of the due process rights of students and parents contained in Policy & Procedure 3200. These documents are available in each school building and can be reviewed by parents or students by making a request to the school principal. In addition, the policies are available in the Student Services Office, 200 N. Bernard Street, Spokane, WA 99201.

Notice of Disciplinary Action
(Revised: 07/01/2003)
Retention: Through all educational levels or until leaves District

Signed _____ Date 10-20-15

Appendix L:

Notice of Disciplinary Action Converted- Emergency Expulsion, 10-28-15 (CP 108)

Spokane Public Schools
excellence for everyone

Notice of Disciplinary Action
Converted - Emergency Expulsion

Lewis and Clark High School
509-354-7000

To the Parent/Guardian of: Quincy R Marin
32 W Pacific Av
Spokane WA 99201

Date of Incident: 10/19/2015
Date of Parent Notification: 10/19/2015
Home Phone: 559-800-6689
DOB: 12/1/1996
Grade: 12
IEP: No
504: No Ethnicity: Multiracial

This is to inform you that in accordance with Spokane Public Schools Policy No. 3200, Student Rights and Responsibilities, I will impose the following disciplinary action.

Emergency Expulsion converted to Expulsion.

Recommended Conversion for: 151 days, 10/19/2015 THRU 6/17/2016

Original Offense: Threat to Staff

Violation of Policy: 3200
If you have any questions, you may contact the school between 8:00 AM and 3:00 PM, Monday through Friday

---

APPLICATION FOR READMISSION: For Re-entry conference, call your school office

Any student who has been suspended/expelled may make application for readmission at any time. Requests for readmission to the school from which the student was suspended/expelled must be made in writing to Student Services. If the student wishes readmission to another school, application in writing must be made to the grade level Coordinator of Student Services. For information as to the content of such application, the student may contact the school, Student Services, or may consult Policy 3200.

HEARING RIGHTS:

You are entitled to a hearing on this matter. Request for a hearing must be received by the 3rd school day after receipt of this notice.

Purpose of Hearing: To determine if the disciplinary action is supported by the evidence.

How to Request a Hearing: within the time limitations set forth above, a written request for a hearing must be made by the parent/student to the Student Services Department. Spokane Public Schools, 200 N. Bernard Street, Spokane, WA 99201. The request should state whether the student plans to have legal counsel present at the hearing. The hearing will take place within three school days after receipt of the request. If a hearing is not requested within the time limits specified above, the district will deem the student or parent to have waived hearing rights and the proposed disciplinary action will be imposed.

Pre-Hearing & Hearing Process: The Student and parent have the right to (a) inspect in advance of the hearing, any documentary or other physical evidence the school district will use at the hearing; (b) have their legal counsel present witnesses and/or evidence. The school has a right to inspect in advance any documentary or other physical evidence the student plans to use at the hearing.

Appeals from hearing authority's decision are governed by Spokane Schools Policy 3200.

NOTE: The information contained in this notice of disciplinary action is a synopsis of the due process rights of students and parents contained in Policy & Procedure 3200. These documents are available in each school building and can be reviewed by parents or students by making a request to the school principal. In addition, the policies are available in the Student Services Office, 200 N. Bernard Street, Spokane, WA 99201.

Notice of Disciplinary Action
(Revised: 07/01/2003)
Retention: Through all educational levels or until leaves District

Signed _____ Date 10/28/15

Appendix M:

Request for Student Records from TeamChild to Geneva Wyatt at Washington Unified School District (CP 109-12)

Katherine Fowler <katherine.fowler@teamchild.org>

Request for Student Records

1 message

Katherine Fowler <katherine.fowler@teamchild.org> Wed, Nov 4, 2015 at 9:35 AM
To: gwyatt@wusd.ws

Hello Ms. Wyatt,

TeamChild would like to request student records for Quincy Marin (DOB 12/1/96). Quincy has signed a Release of Information which I have attached to this email. I am also sending you a copy of our Request for Records to give you an idea of the kinds of records we are seeking. We would be happy to receive these electronically or by fax at the number below.

Thank you for your assistance with this. Please feel free to call this office at 509-323-1166 with any questions.

Katherine Fowler

Program Assistant, TeamChild
1704 West Broadway
Spokane, WA 99201
Phone: 509-323-1166
Fax: 509-232-3051
Web: www.teamchild.org
katherine.fowler@teamchild.org

NOTICE: This electronic communication and any attachments may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately and permanently delete the message and any attachments without copying, transmitting or disclosing the contents. Thank you.

2 attachments

QM ROI WUSD.pdf
356K

WUSD Records Request 11-4-15.pdf
183K

TeamChild Advocacy for Youth

November 4, 2015

Geneva Wyatt
Student Records
Washington Unified School District
Via email to gwyatt@wusd.ws

RE: Quincy Marin, DOB 12/1/96

Dear Ms. Wyatt:

On behalf of Quincy Marin, I am requesting his educational records. Please include in his records the following information:

- **ALL** academic progress reports, including grade reports and standardized test results;
- Attendance reports from the last 4 years;
- **ALL** disciplinary reports, including referrals and notices of suspension and expulsion;
- **ALL** documentation, correspondence, and emails regarding consideration for special services;
- **ALL** Evaluations, plans (IEP and 504), and **ALL** other documentation regarding special education and 504 eligibility and services; and
- **ALL** Incident Reports from School Resource Officers that may exist for the student.

Attached please find an authorization to release these records. These records can be e-mailed to katherine.fowler@teamchild.org, faxed to (509) 232-3051, or mailed to our office at: 1704 W. Broadway, Spokane, Washington 99201.

TeamChild is a non-profit organization trying to assist youth in resolving problems that may result in at-risk behaviors or criminal difficulties. To meet this goal, we seek all relevant information to help us better understand their needs. Since we are a non-profit agency, other schools and medical facilities have waived fees such as copying and postage. Your waiver of any fees would be an asset to TeamChild's efforts to help Quincy. **If you are unable to grant a fee waiver, please contact me at (509) 323-1166.**

Thank you for your time and assistance with this request. Please let me know if you have any questions, or if there is any way that I can help to expedite this process.

Best Regards,

Katherine Fowler
Program Assistant to
Rosemarie Thurman
Daniel Ophardt
Staff Attorneys

Offices in King ♦ Pierce ♦ Snohomish ♦ Spokane ♦ Yakima Counties
Spokane County Office: 1704 West Broadway, Spokane, WA 99201 ♦ Phone (509) 323-1166 ♦ Fax (509) 232-3051 ♦ www.teamchild.org

TeamChild

Katherine Fowler <katherine.fowler@teamchild.org>

FW: Attached Image

1 message

Geneva Wyatt <gwyatt@wusd.ws> Wed, Nov 4, 2015 at 11:50 AM
To: katherine.fowler@teamchild.org

-----Original Message-----
From: Washington Unified SD [mailto:relay@wusd.ws]
Sent: Wednesday, November 04, 2015 11:04 AM
To: Geneva Wyatt
Subject: Attached Image

--

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--

CONFIDENTIALITY NOTICE: This electronic mail transmission and any files transmitted with it may contain privileged and/or confidential information only for use by the intended recipient. Unless you are the addressee or authorized to receive messages for the addressee, you may not use, copy, disclose, or distribute this message, or any information contained in or attached to this message, to anyone. If you received this transmission in error, please notify the sender, Washington Unified School District, by reply e-mail or by telephone at (559) 495-5600 and delete the transmission. Thank you.

4432_001.pdf
299K

2014-2015

Elm High School

11/4/2015

Stu#	Last Name	First Name	Middle Name	Student ID	Sex	Grade	Prg	Track	Status
64588	Marin	Quincy		304132	M	12			

MON A 0123456789		TUE A 0123456789		WED A 0123456789		THU A 0123456789		FRI A 0123456789	
8/18	STAFF DEV	8/19	HOT SOALC	8/20	STAFF DEVL	8/21	-	8/22	-
8/25	-	8/26	-	8/27	-	8/28	-	8/29	-
9/01	HOLIDAY	9/02	-	9/03	-	9/04	-	9/05	-
9/08	-	9/09	-	9/10	-	9/11	-	9/12	-
9/15	-	9/16	-	9/17	-	9/18	-	9/19	-
9/22	-	9/23	-	9/24	-	9/25	-	9/26	-
9/29	-	9/30	-	10/01	-	10/02	-	10/03	-
10/06	-	10/07	-	10/08	-	10/09	-	10/10	-
10/13	-	10/14	-	10/15	-	10/16	-	10/17	-
10/20	-	10/21	-	10/22	-	10/23	-	10/24	-
10/27	-	10/28	-	10/29	STAFF DEV	10/30	-	10/31	-
11/03	-	11/04	-	11/05	-	11/06	-	11/07	-
11/10	HOLIDAY	11/11	HOLIDAY	11/12	-	11/13	-	11/14	-
11/17	-	11/18	-	11/19	-	11/20	-	11/21	-
11/24	HOLIDAY	11/25	HOLIDAY	11/26	HOLIDAY	11/27	HOLIDAY	11/28	HOLIDAY
12/01	-	12/02	-	12/03	-	12/04	-	12/05	-
12/08		12/09	-	12/10	-	12/11	-	12/12	-
12/15	-	12/16	-	12/17	-	12/18	-	12/19	-
12/22	HOLIDAY	12/23	HOLIDAY	12/24	HOLIDAY	12/25	HOLIDAY	12/26	HOLIDAY
12/29	HOLIDAY	12/30	HOLIDAY	12/31	HOLIDAY	1/01	HOLIDAY	1/02	HOLIDAY
1/05	HOLIDAY	1/06	HOLIDAY	1/07	HOLIDAY	1/08	HOLIDAY	1/09	HOLIDAY
1/12	-	1/13	-	1/14	-	1/15	-	1/16	-
1/19	HOLIDAY	1/20	-	1/21	-	1/22	-	1/23	-
1/26	-	1/27	-	1/28	-	1/29	-	1/30	-
2/02	-	2/03	-	2/04	-	2/05	-	2/06	-
2/09	HOLIDAY	2/10	-	2/11	-	2/12	-	2/13	-
2/16	HOLIDAY	2/17	-	2/18	-	2/19	-	2/20	-
2/23	-	2/24	-	2/25	-	2/26	-	2/27	-
3/02	-	3/03	-	3/04	-	3/05	-	3/06	-
3/09	-	3/10	-	3/11	-	3/12	-	3/13	-
3/16	-	3/17	-	3/18	-	3/19	-	3/20	-
3/23	-	3/24	-	3/25	-	3/26	-	3/27	-
3/30	HOLIDAY	3/31	HOLIDAY	4/01	HOLIDAY	4/02	HOLIDAY	4/03	HOLIDAY
4/06	HOLIDAY	4/07 A	A	4/08 A	A	4/09 A	A	4/10 A	A
4/13 A	A	4/14 A	A	4/15 A	A	4/16 A	A	4/17 A	A
4/20 A	A	4/21 A	A	4/22 A	A	4/23 A	A	4/24 A	A
4/27 A	A	4/28 A	A	4/29 A	A	4/30 A	A	5/01 A	A
5/04 A	A	5/05 A	A	5/06 A	A	5/07 A	A	5/08 A	A
5/11 A	A	5/12 A	A	5/13 A	A	5/14 A	A	5/15 A	A
5/18 A	A	5/19 A	A	5/20 A	A	5/21 A	A	5/22 A	A
5/25	HOLIDAY	5/26 A	A	5/27 A	A	5/28 A	A	5/29 A	A
6/01 A	A	6/02 A	A	6/03 A	A	6/04 A	A	6/05 A	A
6/08 A	A	6/09 A	A	6/10 A	A	6/11 A	A	6/12 A	A
6/15	NO SCHOOL	6/16	NO SCHOOL	6/17	NO SCHOOL	6/18	NO SCHOOL	6/19	NO SCHOOL

Enter/Leave/Program changes

Date	Ent/Lv	Grd	Prg	AttPr1	AttPr2	Trk	Reason	Rptg Schl	IntDst Trans	District of Residence
08/21/2014	E	12						0		

Summary of Attendance by Period

CD	Description	All	P0	P1	P2	P3	P4	P5	P6	P7	P8	P9
A	Absent	48	0	48	0	0	0	0	0	0	0	0
	TOTALS											
#	EXCUSED											
*	UNEXCUSED	48	0	48	0	0	0	0	0	0	0	0

Days Enrolled	178
Days Present	130
Excused	0
Unexcused	48

Was not on special Ed

No discipline

Period Attendance Record 11:00:52 AM As of Wednesday, November 4, 2015

Appendix N:
Statement of Quincy Marin (CP 113-21)

Statement

ame: Quinay Marin

Date:

RECEIVED
OCT 21 2015
STUDENT EMPLOYMENT SERVICES

Witnesses:

Statement:
When I went to enroll At L.C. I already knew what to do I called my previous School and I also spoke to MR. Fisk At North Central High School. He gave me all the information and steps. I walked into the School and turned right. they told me to go into the main office there was A Lady that gave me the wrong information I had to correct her many of times only to find out she was A Sobsitute Secratary. I asked for registration forms thats when MR. Skidmoore decided to take it upon himself multiple times after

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature: Quinay Marin

Admin Signature:

1

I Just need the registration forms
he Asked me was I Lost I said
I Just told you what I am here for
I need to enroll into School. I then te
him that I needed to Speak A Counselor
that helps with Students with the Last
name "M" I Knew her name would
be Mrs. Reiner but At times id forget her
name they Said She would be out
+ few days I tried to get on her
alender for an appomtment to be mad
R. Skidmoore Pulled me into his office
then explained to him again he got
ff topic Comparing me to "Treyvon Martin
ats when I began to belive he is
acist. He Told me also that because
1 A tall Guy with this hood on thats
hy they Stopped me At the door I
id "Who" - Nobody Stopped me At
sor- You are the only one giving
e A hard time you Stopped me

Statement

ame: Quincy Marin

Date:

Witnesses:

Statement:
He then thought about what he said then he called some other guy I think his name is Mr. Elsey. they both harrassed me as I explained why I was there then ~~the~~ when I demanded to speak to the principle they convinced me MR. Clevs are close, was the principle they called me into his office the I explained again, I had to basically tell MR. Skidmoore to just let me handle my enroll ment process without his presence.

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature:

Admin Signature:

thats when they all insisted there wa
no enrollment registration form availabe a
there was no way for me to enroll I
got mad and left. then I called Sarah
Miller and explained what was going
on She told me what I need to do
So I went back in and they Started
following me saying stuff I ignored
and gave my phone to A Lady in the offic
"I forgot her name but she is the most
ind hearted Lady I respect her Alot" She
ave me the registration forms "I was
ied to about and I had to stay on
the phone with Sarah Miller for about
n hour Just to make sure they would
arrass me they Stood and Watched
me, Like Angry people. Just watched
me, MR. Elsey Came over trying to
ontrol the Situation I told him to please
eave me alone hes Starting to irritate
e making me feel uncomfortable. with
is all being said." I got everythin
ne.

Statement

ame: Quincy Marin

Date:

Witnesses:

Statement:

My first day of school when "they" "MR. Esey" "MR Skidmore" seen me they looked Mad that I was Now A Student but MR. Skidmore would try to Say his and Stop me to talk I would ignore him because I know he's bad News. So up into about A week ago I had trouble parking MR. Skidmore got involved and we ended up talking things out AS A Student I Still felt un Comfortable around him because of his behavior towards me during the time of enrollment I notice him watching me alot I Rember him following me from the front of

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature:

Admin Signature:

3

to the other side of the School includ
following me up some Stairs and across
the sky bridge. MR. Skidmoore makes me
feel uncomfortable As A Student and has A
motive. the Night of home Comming I seen
MR. Skidmoore in the front He spoke shoo
my hand and fold me I Looked nice
I got inside the gym and he followed
me I remember walking around Lookin
for people to talk to and dance with
He was right behind me making me
feel uncomfortable taking my mind off
having A good time; I rember After
dancing I went to go get some
water he followed me I turned around
he asked me If I was Lost. I told
im no, but your following me. He Said he
wasn't then I said your also watching
me. he Said Its not Just you Its
everyone "basically Confirming What I Just
Said I walked away. He Had the
most weird Look on his face and
was saying didut' ...

Statement

ame: Quincy Marin

Date:

Witnesses:

Statement:

I walked away. I Remember Lanoing and him watching me looking away. When every thing happened in the hallway there where people trying to get to me and hit me instead of insuring my safety he pushed and shoved me All the way into the wrestling room He did not Control the Situation enough. I had to raise my voice And use Strong Langue I told him to get his fucku hands of me and not to touch me me. "Confirming what he Just did he said" then Leave go and get your shit."

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature: [signature]

Admin Signature:

4

He also [illegible] at me saying the "F" word "Shit." He then harrassed me about leaving when we tried to explain what happe saying he didn't care and to get the "Fuk" out. I ended up outside one of the people who started it came up apologizing for starting everything right infront of MR. Skidmoore proving It was me starting everything he still yelled and told me to leave and told me stuff just to make me mad he was acting very childish worser than is students very unprofessional. He informed me that He was going to expell me as he "followed" me as I tried to leave to my car. On Monday Students who spoke with him are informing me he is trying to get them to say I forced my date into my car with intensions of rape. And that to be careful getting to my car because I will get mad and use them.

Statement

ame: Quincy Marin

Date:

Witnesses:

Statement:
He is also telling to shut there mouth, while they are trying to give Statements on what happened preventing any type of backup on my side. Also telling Student information regarding this matter violating my rights telling Students why he's expelling me.

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature:

Admin Signature:

5

Appendix O:
Statement of S.R. (CP 136)

Statement

Name: Patricia Rogue **Date:** 10-19-15

Witnesses: Kae

Statement:

Girls approached Quincy and they got in each others face and the girls put their hands in his face which made him really mad, then they all started yelling and it got out of hand.

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature: Patricia Rogue

Admin Signature:

Appendix P:
Statement of K.R. (CP 138-39)

Statement

Name: Kristan **Date:** 10/20

Witnesses:

Sativa, Tijeus, Kay, lilly, Adoness, Crissy

Statement:

I was dancing an all i kept hearing was Tj my sisters date getting mad because she was dancing with my best friend quincy Tj got mad and started telling people and then all of a sudden 4 to 5 people started to beat quency up for no reason at all and the freshmen name Kay was under the influence of drinking before she came so she was talking a bunch of mess too and quency was her only ride home the assistant teacher skidmore pushed quency to the wrestling room and thought he was the one who started it because he was defending himself skidmore pushed him all the way out side to tell him to leave an

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature: Kristan Rogers

Admin Signature:

Statement

Name: Kristen **Date:**

Witnesses:

Statement:

they Both got into each others faces screaming and yelling at each other i got in Tj's face because he disstespected me + my sister he said he was going to hit me and after that i got picked up and had been put outside (kicked out) then everyone said it was avengys fault when it was really Tj's fault.

I certify (or declare under penalty of perjury under the laws of the State of Washington that the above statement is true and correct.

Signature: Kristen Rogers

Admin Signature:

Appendix Q:

Letter from Judge Price Re: Summary Judgement (CP 140-41)

SPOKANE COUNTY COURT HOUSE

Superior Court of the State of Washington
For the County of Spokane

Department No. 5

Michael P. Price
Judge

Kati Dorman
JUDICIAL ASSISTANT

Crystal Hicks
COURT REPORTER

1116 WEST BROADWAY • SPOKANE, WA 99260-0350
(509) 477-4766 • FAX (509) 477-5714 • TDD: (509) 477-5790
dept5@spokanecounty.org

FILED

MAY 04 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

May 4, 2016

Daniel Sean Ophardt
Team Child
1704 W. Broadway Fl 1
Spokane, WA 99201

Gregory Lee Stevens
Stevens Clay
421 W. Riverside Ave. Ste. 1575
Spokane, WA 99201-0409

RE: MARIN, QUINCY V SPOKANE PUBLIC SCHOOLS NO 81
No. 2016-02-00466-5

Dear Counsel:

As you know this matter is scheduled for hearing on August 5, 2016 at 10:30 a.m. in Spokane County Superior Court, Department 5. The hearing was previously scheduled for April 29, 2016; however, counsel agreed that for various reasons a continuance was necessary.

There seems to be some misunderstanding or perhaps misinterpretation of the statute regarding hearings pursuant to RCW 28A.645.010.

As counsel are aware, hearings pursuant to RCW 28A.645.010 are heard *de novo* by the Superior Court. The statute does not allow counsel to admit new evidence at the time of the Superior Court hearing. Instead, the Court is confined to review of the record below. Occasionally, attorneys misunderstand what *de novo* means and how it should be implemented by the Court. The answer is actually very straight forward. Counsel are free to argue any theory they choose, so long as that argument is confined to that which the hearing officer(s) below reviewed. In that regard, I will not be providing either side the opportunity to introduce new evidence or otherwise make additions to the record.

Finally, it is my understanding that Counsel for Mr. Marin has requested a summary judgment hearing, which the Court would decline to schedule. The statute provides for expedited relief but does not provide either party the opportunity to file motions for specific relief prior to the hearing on appeal, which again was continued by agreement to August 5, 2016.

Very Truly Yours,

Michael P. Price
Superior Court Judge

cc: Court File

Appendix R:
Notes from Lisa Renner, Guidance Counselor (CP 191)

4

School: Lewis and Clark High School Term: 15-16 Semester 1

Edit Conference Log

Marin, Quincy R 12 633231 LEWI

Log Date & Time	09/21/2015 11:52 AM
Staff Name (Last, First)	Renner, Lesa
Staff ID	
Referred By	
Conference Date	09/21/2015
Conference Reason	Get Acquainted
Description	Registered Quincy based on credits he says are pending. Has call in to old advisor. If the credits do not come through, he knows he will need another placement (talked OTA or Gateway) in order to finish this year.

PEARSON

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PS8APP05

Spokane County # **16-2-00466-5**
MARIN VS SPOKANE PUBLIC SCHOOLS NO. 81
Exhibit # 28

Appendix S:
Court's Memorandum Decision (CP 192-93)

Superior Court of the State of Washington
For the County of Spokane

Department No. 5

Michael P. Price
Judge

Kati Dorman
JUDICIAL ASSISTANT

Crystal Hicks
COURT REPORTER

1116 WEST BROADWAY • SPOKANE, WA 99260-0350
(509) 477-4766 • FAX (509) 477-5714 • TDD: (509) 477-5790
dept5@spokanecounty.org

FILED
AUG 26 2016
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

August 25, 2016

Daniel Sean Ophardt
Team Child
1704 W. Broadway Fl 1
Spokane, WA 99201

Gregory Lee Stevens
Stevens Clay PS
421 W. Riverside Ave. Ste. 1575
Spokane, WA 99201-0409

RE: MARIN, QUINCY V SPOKANE PUBLIC SCHOOLS NO 81
No. 2016-02-00466-5

Dear Counsel:

As you will recall, I indicated to you at the time of our hearing that, given time restraints created by the emergency surgery of our Presiding Judge, I would need to take this matter under advisement and issue a written decision at a later date.

I have now had the opportunity to review the entire Superior Court file. That includes but is not limited to the following:

1. All volumes of Spokane County Superior Cause No. 2016-02-00466-5.
2. Plaintiff/Appellant's Trial Brief.
3. Respondent Spokane School District's Response Brief.
4. Plaintiff/Appellant's Reply Brief.
5. Certification and filing of transcription of evidence papers and exhibits per RCW 28A.645.020.

ORIGINAL

6. Appellant's Motion to Strike Respondent's Response Brief.
7. Respondent Spokane School District's Opposition to Appellant's Motion to Strike.
8. Appellant's Reply to Respondent's Opposition to Motion to Strike.
9. Declaration of David Crump.
10. Declaration of Daniel Close.

I am mindful of counsels' argument at the time of hearing and would like to add that counsels' oral advocacy was superlative and well presented.

In consideration of the above and otherwise being fully advised, the Court would forthwith **deny** the Appellant's requested relief in total. The decision of the District's Board is affirmed in all respects. Each party shall pay their own attorney's fees and costs in this proceeding.

In that the School District is the prevailing party, the Court would kindly request Mr. Stevens prepare a brief order memorializing the Court's ruling. A presentment without oral argument is scheduled for September 9, 2016 at 8:30 a.m., but may be stricken should the Court receive an agreed order prior to that date.

Very Truly Yours,

Michael P. Price
Superior Court Judge

cc: Court File

ORIGINAL

Appendix T:

Notice of Appeal to the Court of Appeals Division III (CP 194-99)

FILED

OCT 10 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Notice of Appeal

SUPERIOR COURT OF WASHINGTON FOR
SPOKANE COUNTY

Quincy Marin, Appellant, v. Spokane Public Schools No. 81, Respondent.	)))))	No. 2016-2-00466-5 NOTICE OF APPEAL TO WASHINGTON STATE COURT OF APPEALS DIVISION III

Quincy Marin, appellant, seeks review by the designated appellate court of the Spokane Superior Court's order denying all relief, entered on September 8, 2016. This order affirmed the Spokane Public School's Board of Directors decision, dated January 6, 2016.

Copies of both of these decisions are attached to this notice.

October 10, 2016

Daniel S. Ophardt
WSBA #46751
Attorney for Appellant
TeamChild
1704 W. Broadway Ave.
Spokane, WA 99201
509-323-1166

Attorney for Respondent:
Gregory Stevens
Stevens Clay
421 W Riverside Ave # 1575
Spokane, WA 99201
509-838-8330

TeamChild
1704 W. Broadway
Spokane, WA 99201
Phone: 509-323-1166
Fax: 509-232-3051

Board of Directors
200 North Bernard Street
Spokane, WA 99201-0282

phone (509) 354-7364
fax (509) 354-5965
www.spokaneschools.org

Spokane Public Schools
excellence for everyone

January 6, 2016

Via Regular Mail and Facsimile

Daniel Ophardt, Staff Attorney
TeamChild
1704 W. Broadway
Spokane, WA 99201
Fax: 509-232-3051

RE: Quincy Marin Long-Term Suspension Appeal

Dear Mr. Ophardt:

A hearing was held before the Spokane School District Board of Directors on Monday, December 14, 2015, to contest the long-term suspension imposed on Lewis and Clark High School student Quincy Marin. Quincy attended this hearing along with you, as his attorney and representative. Dan Close, Assistant Principal, appeared on behalf of Lewis and Clark. Also in attendance was Dr. Shelley Redinger, Superintendent of Schools, Greg Stevens, School District attorney, Jeremy Ochse, Lewis and Clark High School Principal, and Dr. David Crump, Director of Student Services.

By way of background, Lewis and Clark High School imposed an emergency expulsion on Quincy Marin for "threat to staff." Lewis and Clark then converted this emergency expulsion to a regular expulsion to run through the end of the 2015-2016 school year. Quincy, through his attorney Dan Ophardt, appealed this expulsion. School District Hearing Officer, Bonnie Ducharme, held a hearing between the parties. Ms. Ducharme upheld Lewis and Clark's emergency expulsion, yet overturned the regular expulsion and converted it to a long-term suspension through January 29, 2016. Quincy, through his attorney Daniel Ophardt of TeamChild, appealed this decision of long-term suspension to the School Board.

The first order of business was for the School Board to decide how the appeal was to be handled. On behalf of Quincy, you and representatives from Lewis and Clark recommended that the appeal be handled as follows:

1. The School Board be provided with a copy of the transcript from the earlier hearing, along with all exhibits and documentation submitted by Lewis and Clark and by Quincy Marin. The Board would review and study these documents.

2. Quincy and Mr. Ophardt would be allowed to show and comment upon a video depicting events during a dance at Lewis and Clark on October 19, 2015, the date when the alleged misconduct occurred. Mr. Dan Close, Assistant Principal at Lewis and Clark, would likewise be allowed to comment on the video.

3. Both sides would be allowed to make summations/closing arguments. The Board considered the parties' recommendations and agreed to follow this process. The hearing before the Board commenced in accordance with these procedures.

Spokane School Board has carefully considered all of the evidence, including the transcript, exhibits submitted before Hearing Officer Ms. Ducharme, video of the Lewis and Clark dance, statements and arguments by Quincy, his attorney, and Dan Close of Lewis and Clark.

One of the issues that received some attention and concern was the apparently difficult enrollment process that Quincy initially encountered upon arriving at Lewis and Clark. As a young man advocating for himself, the School Board is disappointed that Quincy encountered such difficulties, which appears to have created a poor initial impression for him at Lewis and Clark. The Board asked School District administration to review this mid-year enrollment process to ensure that it is as accommodating and easy as possible.

Quincy was disciplined by Lewis and Clark for "threats to staff." In reviewing all of the information and considering Quincy's own testimony, the Board does not believe that Quincy intended his actions to be a threat to Lewis and Clark administrators. Nonetheless, in looking at this event through the eyes of a reasonable administrator, the School Board can understand how Quincy's actions, including profanity, posturing, and his agitated state, could be perceived as threatening. Therefore, the School Board upholds Lewis and Clark's actions in emergency expelling Quincy and further upholds the hearing officer's modification of Quincy's discipline to a long-term suspension through January 29, 2016. It is also the decision of the School Board to reinstate Quincy into Spokane School District immediately, albeit not at Lewis and Clark High School, so that he can continue his education and have the opportunity to obtain some credits towards graduation. School District administrators have been directed to work with Quincy while he is on long-term suspension to provide him access to an appropriate School District program, such as Gateway or the ICAN program that would give Quincy an opportunity to earn some credits this semester. School District administration and/or counselors also have been asked to meet with Quincy as soon as possible to develop a reengagement plan for his enrollment in the District next semester. This plan should allow Quincy the best opportunity to gain credits in order to reach his goal of receiving a high school diploma. This plan should consider all appropriate programs available in the District, taking into account Quincy's age and number of high school credits obtained to date. However, it needs to be clear that if Quincy's choice is to return to Lewis and Clark High School for the second semester, he is entitled to do so.

The School Board appreciates the advocacy of Quincy and his attorney, and values Quincy's efforts to further his education. The professionalism of Lewis and Clark administrators is commended as well.

Deana Brower

Deana Brower, President
Spokane School Board

cc: Dr. Shelley Redinger, Superintendent
Dr. David Crump, Director, Student Services
Mr. Jeremy Ochse, Principal, Lewis and Clark High School

FILED

SEP 08 2016

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY

MARIN, QUINCY 12/1/1996, Appellant, vs. SPOKANE PUBLIC SCHOOLS NO. 81, a municipal corporation, Respondent.	NO. 16-2-00466-5 ~~[Proposed]~~ ORDER *Clerk's Action Required*

Upon review and consideration of the Superior Court's file and counsels' oral arguments at the hearing of Appellant's appeal, the Court **DENIES** Appellant's requested relief in total and **AFFIRMS** in all respects the decision of Respondent's Board of Directors. Each party shall be responsible for their own attorney's fees and costs.

DATED this 8th day of September, 2016.

JUDGE MICHAEL P. PRICE
Superior Court Judge

ORDER - 1

Presented by:

STEVENS CLAY, P.S.

GREGORY L. STEVENS, WSBA #15627
Attorney for Spokane School District

Notice of Presentment Waived:

TEAMCHILD

DANIEL OPHARDT, WSBA #46751
Attorney for Quincy Marin

Appendix U:
Designation of Clerk's Papers

ORIGINAL FILED
NOV 1 8 2016
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SPOKANE COUNTY

Quincy Marin, Plaintiff/Appellant, vs. SPOKANE PUBLIC SCHOOLS NO. 81, a municipal corporation, Defendant/Respondent.	**No. 2016-2-00466-5** **COA No. 347915** **DESIGNATION OF CLERK'S PAPERS**

TO: THE CLERK OF THE COURT

Please prepare and transmit to the Court of Appeals, Division III, the following clerk's papers.

SUB #	DOCUMENT	NUMBER OF PAGES	FILING DATE
1	Summons	2	2/4/16
2	Notice of Appeal of School District Decision and Complaint for Declaratory Relief	12	2/4/16
7	Letter from Superior Court	1	2/9/16
10	School Board's Decision (January 6, 2016) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	2	2/25/16

TeamChild
1704 W Broadway Ave
Spokane, WA 99201
Ph (509) 323-1166
Fax (509) 381-7176

SUB #	DOCUMENT	NUMBER OF PAGES	FILING DATE
10	Transcript of Student Discipline Appeal Hearing (December 14, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	36	2/25/16
10	Letter from Attorney Dan Ophardt Requesting Appeal to the School Board (November 20, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	2	2/25/16
10	Hearing Officer's Decision (November 17, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	2	2/25/16
10	Transcript of Student Discipline Hearing (November 16, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	41	2/25/16
10	Letter from Attorney Dan Ophardt Requesting a Hearing to Contest Student's Expulsion (November 4, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	3	2/25/16
10	Phone Call Made to Student (October 29, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	1	2/25/16
10	Notice of Disciplinary Action Emergency Expulsion (October 20, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	1	2/25/16
10	Notice of Disciplinary Action Converted-Emergency Expulsion (October 28, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	1	2/25/16
10	Request for Student Records from TeamChild to Geneva Wyatt at Washington Unified School District (November 4, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	4	2/25/16

TeamChild
1704 W Broadway Ave
Spokane, WA 99201
Ph (509) 323-1166
Fax (509) 381-7176

SUB #	DOCUMENT	NUMBER OF PAGES	FILING DATE
10	Statement of Quincy Marin (October 21, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	9	2/25/16
10	Statement of Latia (sic) Rogers (October 18, 2015) From Certification and Filing of Transcription of Evidence, Papers, and Exhibits	1	2/25/16
10	Statement of Kristan Rogers (October 20, 2015) From the Certification and Filing of Transcription of Evidence, Papers, and Exhibits	2	2/25/16
13	Letter from Judge Price to Counsel	2	5/4/16
18	Video of Homecoming Dance Attached as Exhibit 26- Stored in "Side 18"		7/21/16
18	Notes from Lisa Renner, Guidance Counselor Attached as Exhibit 28	1	7/21/16
25	Court's Memorandum Decision	2	8/26/16
27	Notice of Appeal to Washington State Court of Appeals Division III	6	10/10/16

DATED this 11th day of November, 2016.

Daniel S. Ophardt, WSBA No. 46751
TeamChild
1704 W. Broadway Ave
Spokane, WA 99201
Attorney for Appellant

TeamChild
1704 W Broadway Ave
Spokane, WA 99201
Ph (509) 323-1166
Fax (509) 381-7176

PROOF OF SERVICE

I declare under the penalty of perjury under the laws of the state of Washington that on the 14th of November 2016, I served Gregory Stevens of Stevens-Clay with a true and correct copy of the Appellant's Designation of Clerk's Papers by email to gstevens@stevensclay.org and by mail to:

Gregory Stevens
Stevens-Clay
421 W Riverside Ave # 1575
Spokane, WA 99201

Signed at Spokane, Washington, on November 14, 2016.

Daniel Ophardt, WSBA #46751
Attorney for Quincy Marin

Appendix V:
Video of Homecoming Dance

Appendix W:
WAC 392.400 (2014)

Chapter 392-400 WAC
PUPILS
(Formerly chapter 180-40 WAC)

WAC

392-400-200 Purpose and application.
392-400-205 Definitions.
392-400-210 Student responsibilities and duties.
392-400-215 Student rights.
392-400-220 Student disciplinary boards—Establishment at option of school district—Functions.
392-400-225 School district rules defining misconduct—Distribution of rules.
392-400-226 School district rules defining harassment, intimidation and bullying prevention policies and procedures—Distribution of rules.
392-400-227 School district rules defining students religious rights.
392-400-230 Persons authorized to impose discipline, suspension, expulsion, or emergency removal upon students.

DISCIPLINE

392-400-235 Discipline—Conditions and limitations.
392-400-240 Discipline—Grievance procedure.

SHORT-TERM SUSPENSION

392-400-245 Short-term suspension—Conditions and limitations.
392-400-250 Short-term suspension—Prior conference required—Notice to parent.
392-400-255 Short-term suspension—Grievance procedure.

LONG-TERM SUSPENSION

392-400-260 Long-term suspension—Conditions and limitations.
392-400-265 Long-term suspension—Notice of hearing—Waiver of hearing.
392-400-270 Long-term suspension—Prehearing and hearing process.

EXPULSION

392-400-275 Expulsion—Conditions and limitations.
392-400-280 Expulsion—Notice of hearing—Waiver of hearing.
392-400-285 Expulsion—Prehearing and hearing process.

EMERGENCY ACTIONS

392-400-290 Emergency removal from a class, subject, or activity.
392-400-295 Emergency expulsion—Limitations.
392-400-300 Emergency expulsion—Notice of hearing—Waiver of hearing right.
392-400-305 Emergency expulsion—Prehearing and hearing process.

APPEALS

392-400-310 Appeals—Long-term suspension and expulsion.
392-400-315 Appeals—Hearing before school board or disciplinary appeal council—Procedures.
392-400-317 Appeals—Discipline and short-term suspension grievances.
392-400-320 School board or disciplinary appeal council decisions.
392-400-325 Statewide definition of excused and unexcused daily absences.

WAC 392-400-200 Purpose and application. The purpose of this chapter is to implement RCW 28A.600.015 by prescribing the substantive and procedural due process rights of students served by any program or activity conducted by or in behalf of a common school district: Provided, That the enforcement of rules promulgated by the Washington interscholastic activity association and like organizations that govern the participation of students in interschool activities, and appeals in connection therewith, shall be governed by rules of the organization that have been adopted pursuant to RCW 28A.600.200. The procedures and standards set forth in this chapter and those adopted by a school district in conformance with this chapter shall govern the imposition of corrective action or punishment (i.e., discipline, suspension, and expulsion) upon any student by a school district and its agents.

The provisions of this chapter are intended to establish the minimum procedural and substantive due process rights of students. School districts are free to establish additional due process requirements and limitations and shall do so as necessary to accommodate the constitutional rights of students as now or hereafter established.

For rules regarding student conduct which supplement this chapter see chapter 392-145 WAC governing the operation of school buses, particularly WAC 392-145-015(4) regarding the responsibility of bus drivers and certificated staff members who accompany students for the behavior of students, and WAC 392-145-035 regarding the duty to adopt and post rules, including rules of conduct, governing school bus passengers.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-200, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-200, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33. 90-17-009, § 180-40-200, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.132. 82-20-052 (Order 4-82), § 180-40-200, filed 10/1/82; Order 6-77, § 180-40-200, filed 6/2/77, effective 8/1/77.]

WAC 392-400-205 Definitions. As used in this chapter the term: (1) "Discipline" shall mean all forms of corrective action or punishment other than suspension and expulsion and shall include the exclusion of a student from a class by a teacher or administrator for a period of time not exceeding the balance of the immediate class period: Provided, That the student is in the custody of a school district employee for the balance of such period. Discipline shall also mean the exclusion of a student from any other type of activity conducted by or in behalf of a school district.

(2) "Suspension" shall mean 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. A suspension also may include a denial of admission to or entry upon real and personal property that is owned, leased, rented, or controlled by the school district.

(3) "Short-term suspension" shall mean a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

(4) "Long-term suspension" shall mean a suspension which exceeds a "short-term suspension" as defined in subsection (3) of this section.

(5) "Expulsion" shall mean a denial of attendance at any single subject or class or at any full schedule of subjects or

classes for an indefinite period of time. An expulsion also may include a denial of admission to or entry upon real and personal property that is owned, leased, rented, or controlled by the school district.

(6) "School business day" shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays, upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-205, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-205, filed 7/22/96, effective 8/22/96. Statutory Authority: 1979 1st ex.s. c 173 and c 201. 79-11-049 (Order 14-79), § 180-40-205, filed 10/16/79; Order 6-77, § 180-40-205, filed 6/2/77, effective 8/1/77.]

WAC 392-400-210 Student responsibilities and duties. The mission of the common school system is to provide learning experience which will assist all students to develop skills, competencies, and attitudes that are fundamental to an individual's achievement as a responsible, contributing citizen. In order to maintain and advance this mission, it shall be the responsibility and duty of each student to pursue his/her course of studies, comply with written rules of a common school district which are adopted pursuant to and in compliance with WAC 392-400-225 and RCW 28A.600.-010, and submit to reasonable corrective action or punishment imposed by a school district and its agents for violation(s) of such rules. The provisions of this chapter do not lessen the foregoing responsibilities and duties of each student. This chapter is intended to assure that corrective action or punishment is imposed for just cause and in a fair and just manner.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-210, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-210, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33. 90-17-009, § 180-40-210, filed 8/6/90, effective 9/6/90; Order 6-77, § 180-40-210, filed 6/2/77, effective 8/1/77.]

WAC 392-400-215 Student rights. In addition to other rights established by law, each student served by or in behalf of a common school district shall possess the following substantive rights, and no school district shall limit these rights except for good and sufficient cause:

(1) No student shall be unlawfully denied an equal educational opportunity or be unlawfully discriminated against because of national origin, race, religion, economic status, sex, pregnancy, marital status, previous arrest, previous incarceration, or a physical, mental or sensory handicap.

(2) All students possess the constitutional right to freedom of speech and press, the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances, the constitutional right to the free exercise of religion and to have their schools free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(3) All students possess the constitutional right to be secure in their persons, papers, and effects against unreasonable searches and seizures.

(4) All students shall have the right to be free from unlawful interference in their pursuit of an education while in the custody of a common school district.

(5) No student shall be deprived of the right to an equal educational opportunity in whole or in part by a school district without due process of law.

The foregoing enumeration of rights shall not be construed to deny or disparage other rights set forth in the constitution and the laws of the state of Washington or the rights retained by the people.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-215, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.132. 85-04-009 (Order 3-85), § 180-40-215, filed 1/25/85; Order 6-77, § 180-40-215, filed 6/2/77, effective 8/1/77.]

WAC 392-400-220 Student disciplinary boards—Establishment at option of school district—Functions. The board of directors of any school district may authorize the establishment of one or more student disciplinary boards composed of students, teachers, administrators, or parents, or any combination thereof. Disciplinary boards may be authorized to prescribe reasonable discipline and may recommend, but not prescribe, suspension or expulsion to the appropriate school authority. Such school authority shall be granted the power to set aside or modify any such prescription or recommendation. In addition, disciplinary boards may be authorized to periodically review rules of the school district defining the types of misconduct for which corrective action or punishment may be imposed and to recommend amendments thereto to the board of directors.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-220, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-220, filed 6/2/77, effective 8/1/77.]

WAC 392-400-225 School district rules defining misconduct—Distribution of rules. (1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

(a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW 28A.600.020(3).

(b) In a manner consistent with the district procedures developed pursuant to (a) above, the principal and certificated employees in each school building shall confer at least annually for the purpose of developing, or reviewing, or both, building discipline standards and the uniform enforcement of those standards, as required by RCW 28A.400.110.

(2) Rules that establish types of misconduct pursuant to this section must have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process which is conducive to learning.

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to

subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) above, shall be published and made available to all students and parents on an annual basis. If a school district chooses not to distribute such rules to all students and parents, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy thereof shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

[Statutory Authority: 2006 c 263, 06-14-009, recodified as § 392-400-225, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33, 90-17-009, § 180-40-225, filed 8/6/90, effective 9/6/90. Statutory Authority: 1980 c 171, 80-10-030 (Order 11-80), § 180-40-225, filed 8/4/80; Order 6-77, § 180-40-225, filed 6/2/77, effective 8/1/77.]

WAC 392-400-226 School district rules defining harassment, intimidation and bullying prevention policies and procedures—Distribution of rules. A district's harassment, intimidation and bullying policy and procedure shall be published and made available to all parents or guardians, students, employees, and volunteers on an annual basis. The district will publish, at a minimum, the following materials: Policy and procedure, an incident reporting form and current contact information for the district's harassment, intimidation and bullying compliance officer. If a school district chooses not to distribute such rules to all parents or guardians, students, employees, and volunteers, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

[Statutory Authority: RCW 28A.300.285. 11-04-076, § 392-400-226, filed 1/31/11, effective 3/3/11.]

WAC 392-400-227 School district rules defining students religious rights. It shall be the responsibility and duty of each school district to adopt policies of the district for implementation of students' rights to freedom of religion and to have their schools free from sectarian control or influence while they are participating in any school district conducted or sponsored activity or while they are otherwise subject to school district supervision and control. Such rules shall be adopted and transmitted to the superintendent of public instruction.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-227, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263, 06-14-009, recodified as § 392-400-227, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.132. 85-09-049 (Order 6-85), § 180-40-227, filed 4/16/85; 85-04-009 (Order 3-85), § 180-40-227, filed 1/25/85.]

WAC 392-400-230 Persons authorized to impose discipline, suspension, expulsion, or emergency removal upon students. (1) Each certificated teacher, each school administrator, each school bus driver, and any other school employee designated by the board of directors of a school district shall possess the authority to impose discipline upon a student for misconduct which violates rules of the school district established pursuant to WAC 392-400-225 and to impose an emergency removal from a class, subject, or activity upon a student pursuant to WAC 392-400-290.

(2) The board of directors of any school district may delegate to the superintendent and/or his or her designee(s) the authority to impose suspensions and expulsions upon students for misconduct which violates rules of the school district established pursuant to WAC 392-400-225. Each certificated teacher and each administrator shall possess the authority to recommend suspensions and expulsions for such misconduct.

(3) Any board of directors which chooses not to delegate the authority to impose suspensions and/or expulsions, nevertheless, shall be subject to the requirements set forth in this chapter when it imposes a suspension or expulsion.

(4) Notwithstanding any provision of this section to the contrary, each teacher is empowered to exclude any student who creates a disruption of the educational process in violation of the building disciplinary standards while under the teacher's immediate supervision from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: Provided, That except in emergency circumstances as provided for in WAC 392-400-290, the teacher shall have first attempted one or more alternative forms of corrective action: Provided further, That in no event without the consent of the teacher shall an excluded student be returned during the balance of the particular class or activity period from which the student was initially excluded.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-230, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263, 06-14-009, recodified as § 392-400-230, filed 6/22/06, effective 6/22/06. Statutory Authority: 1980 c 171, 80-10-030 (Order 11-80), § 180-40-230, filed 8/4/80; Order 6-77, § 180-40-230, filed 6/2/77, effective 8/1/77.]

DISCIPLINE

WAC 392-400-235 Discipline—Conditions and limitations. Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-400-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) A student's academic grade or credit in a particular subject or course may be adversely affected by reason of tardiness or absences only to the extent and upon the basis that:

(a) The student's attendance and/or participation is related to the instructional objectives or goals of the particular subject or course, and

(b) The student's attendance and/or participation has been identified by the teacher pursuant to policy of the school district as a basis for grading, in whole or in part, in the particular subject or course.

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or

(d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-235, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-235, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.410.010. 94-03-102 (Order 3-94), § 180-40-235, filed 1/19/94, effective 2/19/94. Statutory Authority: RCW 28A.305.160. 93-01-077, § 180-40-235, filed 12/14/92, effective 1/14/93. Statutory Authority: RCW 28A.04.132. 90-17-004, § 180-40-235, filed 8/2/90, effective 9/2/90; 87-09-040 (Order 6-87), § 180-40-235, filed 4/14/87; Order 6-77, § 180-40-235, filed 6/2/77, effective 8/1/77.]

WAC 392-400-240 Discipline—Grievance procedure. Any student, parent, or guardian who is aggrieved by the imposition of discipline shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 392-400-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The discipline action shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-240, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-240, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-240, filed 7/22/96, effective 8/22/96; Order 6-77, § 180-40-240, filed 6/2/77, effective 8/1/77.]

SHORT-TERM SUSPENSION

WAC 392-400-245 Short-term suspension—Conditions and limitations. A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) short-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an immediate resort to short-term suspension, and/or (b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension (for example, misconduct judged by a school district to be the same or of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school

without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to short-term suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No student in the grade five and above program shall be subjected to short-term suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(6) Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades, or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-245, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-245, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 97-01-047, § 180-40-245, filed 12/12/96, effective 1/12/97. Statutory Authority: 1990 c 33. 90-17-009, § 180-40-245, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.132. 85-12-042 (Order 14-85), § 180-40-245, filed 6/5/85. Statutory Authority: 1979 1st ex.s. c 173 and c 201. 79-11-049 (Order 14-79), § 180-40-245, filed 10/16/79; Order 13-77, § 180-40-245, filed 10/18/77; Order 6-77, § 180-40-245, filed 6/2/77, effective 8/1/77.]

WAC 392-400-250 Short-term suspension—Prior conference required—Notice to parent. (1) Prior to the short-term suspension of any student a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school district rules shall be provided to the student,

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student,

(c) An oral or written explanation of the corrective action or punishment which may be imposed shall be provided to the student, and

(d) The student shall be provided the opportunity to present his/her explanation.

(2) In the event a short-term suspension is to exceed one calendar day the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to an informal conference pursuant to WAC 392-400-255 and that the suspension may possibly be reduced as a result of such conference.

(3) All short-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-250, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-250, filed 6/22/06, effective 6/22/06. Order 6-77, § 180-40-250, filed 6/2/77, effective 8/1/77.]

WAC 392-400-255 Short-term suspension—Grievance procedure. Any student, parent, or guardian who is aggrieved by the imposition of a short-term suspension shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 392-400-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The short-term suspension shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-255, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-255, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-255, filed 7/22/96, effective 8/22/96. Order 6-77, § 180-40-255, filed 6/2/77, effective 8/1/77.]

LONG-TERM SUSPENSION

WAC 392-400-260 Long-term suspension—Conditions and limitations. A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude school districts (that is, the boards of directors of school districts) from establishing the nature and extent of the corrective actions and/or punishments which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action and/or punishment is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, and (b) long-term suspension is not established as the corrective action or punishment for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a long term unless another form of corrective action or punishment reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating and/or exceptional circumstances, notwithstanding the fact prior alternative corrective action or punishment has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district personnel to control such misconduct through the use of other forms of corrective action and/or punishment, as to warrant an immediate resort to long-term suspension, and/or (b) be so serious in nature and/or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension (for example, misconduct judged by a school district to be the same or of the same nature as a violation of the state's drug or controlled substances laws). The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and, where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Kindergarten through grade four—No student in grades kindergarten through four shall be subject to long-term suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(5) Grade five and above program—No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(7) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-260, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-260, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 97-08-019, § 180-40-260, filed 3/25/97, effective 4/25/97. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 97-01-047, § 180-40-260, filed 12/12/96, effective 1/12/97. Statutory Authority: 1990 c 33. 90-17-009, § 180-40-260, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.132. 85-12-042 (Order 14-85), § 180-40-260, filed 6/5/85. Statutory Authority: 1979 1st ex.s. c 173 and c 201. 79-11-049 (Order 14-79), § 180-40-260, filed 10/16/79; Order 6-77, § 180-40-260, filed 6/2/77, effective 8/1/77.]

WAC 392-400-265 Long-term suspension—Notice of hearing—Waiver of hearing. (1) Prior to the long-term suspension of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school district.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed long-term suspension may be imposed.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-265, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-265, filed 6/2/77, effective 8/1/77.]

WAC 392-400-270 Long-term suspension—Prehearing and hearing process. (1) If a request for a hearing is received pursuant to WAC 180-40-265 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the nature and duration of the long-term suspension or lesser form or corrective action or punishment to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-270, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 00-07-018, § 180-40-270, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-270, filed 6/2/77, effective 8/1/77.]

EXPULSION

WAC 392-400-275 Expulsion—Conditions and limitations. A student may be expelled for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the notice requirements set forth in WAC 392-400-280, and the hearing requirements set forth in WAC 392-400-285:

(1) The nature and circumstances of the violation must reasonably warrant the harshness of expulsion.

(2) No student shall be expelled unless other forms of corrective action or punishment reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action or punishment would fail if employed.

(3) In addition to the alternative corrective action requirement of subsection (2) of this section, no student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be expelled by reason, in whole or part, of one or more unexcused absences unless the school district has also first:

(a) Provided notice to the student's parent(s) or guardian(s) or custodial parent(s) in writing in English or, if different, the primary language of the parent(s), guardian(s) or custodial parent(s) that the student has failed to attend school without valid justification, and by other means reasonably necessary to achieve notice of such fact;

(b) Scheduled a conference or conferences with the parent(s) or guardian(s) or custodial parent(s) and the student at

a time and place reasonably convenient to all persons included to analyze the causes for the student's absence, the analysis to determine by appropriate means whether the student should be made a focus of concern for placement in a special education or other special program designed for his/her educational success; and

(c) Taken steps to reduce the student's absence which include, where appropriate in the judgment of local school officials and, where possible, discussed with the student, parent(s), guardian(s) or custodial parent(s), adjustments of the student's school program or school or course assignment or assisting the student or parent to obtain supplementary services that might ameliorate the cause(s) for the student's absence from school.

(4) Once a student has been expelled in compliance with this chapter the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to chapter 13.04 RCW in order that such authorities may address the student's educational needs.

(5) Any student who has been expelled shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(6) All expulsions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the expulsion.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-275, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-275, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33. 90-17-009, § 180-40-275, filed 8/6/90, effective 9/6/90. Statutory Authority: 1979 1st ex.s. c 173 and c 201. 79-11-049 (Order 14-79), § 180-40-275, filed 10/16/79, Order 6-77, § 180-40-275, filed 6/2/77, effective 8/1/77.]

WAC 392-400-280 Expulsion—Notice of hearing—Waiver of hearing. (1) Prior to the expulsion of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged misconduct and the school district rule(s) or policy alleged to have been violated,

(c) Set forth the corrective action or punishment proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s), and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed expulsion may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule or policy of the school district.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed expulsion may be imposed.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-280, filed 6/22/06, effective 6/22/06, Order 6-77, § 180-40-280, filed 6/2/77, effective 8/1/77.]

WAC 392-400-285 Expulsion—Prehearing and hearing process. (1) If a request for a hearing is received pursuant to WAC 392-400-280 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the expulsion or lesser form of corrective action or punishment to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-285, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-285, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 00-07-018, § 180-40-285, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-285, filed 6/2/77, effective 8/1/77.]

EMERGENCY ACTIONS

WAC 392-400-290 Emergency removal from a class, subject, or activity. (1) Notwithstanding any other provision of this chapter, a student may be removed immediately from a class, subject, or activity by a certificated teacher or an administrator and sent to the building principal or a designated school authority: Provided, That the teacher or administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the class, subject, activity, or educational process of the student's school. The removal from classes, subjects, or activities shall continue only until:

(a) The danger or threat ceases, or

(b) The principal or designated school authority acts to impose discipline, impose a short-term suspension, initiate a long-term suspension or an expulsion, or impose an emergency expulsion, pursuant to this chapter.

(2) The principal or school authority shall meet with the student as soon as reasonably possible following the student's removal and take or initiate appropriate corrective action or punishment. In no case shall the student's opportunity for such meeting be delayed beyond the commencement of the next school day. Prior to or at the time any such student is returned to the class(es), subject(s), or activity(ies), the principal or school authority shall notify the teacher or administrator who removed the student therefrom of the action which has been taken or initiated.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-290, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-290, filed 6/2/77, effective 8/1/77.]

WAC 392-400-295 Emergency expulsion—Limitations. Notwithstanding any other provision of this chapter, a student may be expelled immediately by a school district superintendent or a designee of the superintendent in emergency situations: Provided, That the superintendent or designee has good and sufficient reason to believe that the student's presence poses 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. An emergency expulsion shall continue until rescinded by the superintendent or his or her designee, or until modified or reversed pursuant to the hearing provisions set forth in WAC 392-400-305 or the appeal provisions set forth in WAC 392-400-315.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-295, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-295, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-295, filed 6/2/77, effective 8/1/77.]

WAC 392-400-300 Emergency expulsion—Notice of hearing—Waiver of hearing right. (1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion: Provided, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 392-380 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible, and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the tenth school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the emergency expulsion may be continued as deemed necessary by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within ten school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school district.

(3) If a request for a hearing is not received within the required ten school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the emergency

expulsion may be continued as deemed necessary by the school district.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-300, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-300, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.132. 86-20-055 (Order 13-86), § 180-40-300, filed 9/29/86; Order 6-77, § 180-40-300, filed 6/2/77, effective 8/1/77.]

WAC 392-400-305 Emergency expulsion—Prehearing and hearing process. (1) If a request for a hearing within the required ten school business days is received pursuant to WAC 392-400-300, the school district shall immediately schedule and give notice of a hearing to commence as soon as reasonably possible and in no case later than the third school business day after receipt of the request for hearing.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(b) Be represented by legal counsel,

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(d) Present his or her explanation of the alleged misconduct, and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the guilt or innocence of the student shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) Within one school business day after the date upon which the hearing concludes, a decision as to whether or not the expulsion shall be continued shall be rendered, and the student's legal counsel or, if none, the student and his or her parent(s) or guardian(s) shall be notified thereof by depositing a certified letter in the United States mail. The decision shall set forth the findings of fact, the conclusions (including a conclusion as to whether or not the emergency situation giving rise to the emergency expulsion continues), and whether or not the emergency expulsion shall be continued or a lesser form of corrective action or punishment is to be imposed.

(7) An emergency expulsion may be continued following the hearing on the basis that the emergency situation continues and/or as corrective action or punishment for the action(s) giving rise to the emergency expulsion in the first instance.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-305, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-305, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 00-07-018, § 180-40-305, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-305, filed 6/2/77, effective 8/1/77.]

APPEALS

WAC 392-400-310 Appeals—Long-term suspension and expulsion. Appeals from decisions rendered pursuant to WAC 392-400-270, 392-400-285 and 392-400-305 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Any school district board of directors may delegate its authority to hear and decide long-term suspension and expulsion appeals to a school district disciplinary appeal council established by the board. School district disciplinary appeal councils shall be appointed by the school district board of directors for fixed terms and shall consist of not less than three persons.

(2) If the case was not heard and decided by the school district board of directors or school district disciplinary appeal council, the student and his or her parent(s) or guardian(s) shall have the right to appeal the decision to the board of directors or the disciplinary appeal council. Notice indicating that the student or his or her parent(s) or guardian(s) desire to appeal the decision shall be provided to either the office of the school district superintendent or to the office of the person who rendered the decision within three school business days after the date of receipt of the decision. The notice of appeal shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule or policy of the district.

(3) If an appeal is not taken to the board of directors or disciplinary appeal council within the required three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

(4) If a timely appeal is taken to the board of directors or disciplinary appeal council, the suspension or expulsion may be imposed during the appeal period subject to the following conditions and limitations:

(a) A long-term suspension or nonemergency expulsion may be imposed during the appeal period for no more than ten consecutive school days or until the appeal is decided, whichever is the shortest period;

(b) An emergency expulsion may be continued during the appeal period for so long as the student continues to pose 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 of the student's school;

(c) Any days that a student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student's suspension or expulsion and shall not

limit or extend the term of the student's suspension or expulsion; and

(d) Any student subjected to a temporary suspension who returns to school before the appeal is decided shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the suspension if:

(i) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(ii) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(5) An appeal from any decision of a school board or disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of a school board or disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-310, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-310, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 97-08-019, § 180-40-310, filed 3/25/97, effective 4/25/97. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-310, filed 7/22/96, effective 8/22/96; Order 13-77, § 180-40-310, filed 10/18/77; Order 6-77, § 180-40-310, filed 6/2/77, effective 8/1/77.]

WAC 392-400-315 Appeals—Hearing before school board or disciplinary appeal council—Procedures. (1) If a notice of appeal to the school board of directors or school district disciplinary appeal council is received pursuant to WAC 392-400-310(2) within the required three school business days, the board or council shall schedule and hold an informal conference to review the matter within ten school business days after the date of receipt of such appeal notice. The purpose of the meeting shall be to meet and confer with the parties in order to decide upon the most appropriate means of disposing of the appeal as provided for in this section. At that time the student or the student's parent(s) or guardian(s) or legal counsel shall be given the right to be heard and shall be granted the opportunity to present such witnesses and testimony as the board or council deems reasonable. The board or council shall agree to one of the following procedures prior to adjournment or recess:

(a) Study the hearing record or other material submitted and render its decision within ten school business days after the date of the informal conference, or

(b) Schedule and hold a meeting to hear further arguments based on the record before the board or council and render its decision within fifteen school business days after the date of the informal conference, or

(c) Schedule and hold a meeting within ten school business days after the date of the informal conference for the purpose of hearing the case de novo.

(2) In the event the school board of directors or school district disciplinary appeal council elects to hear the appeal de novo, the following rights and procedures shall govern the proceedings:

(a) The student and his or her parent(s) or guardian(s) shall have the right to:

(i) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(ii) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(A) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(B) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(iii) Present his or her explanation of the alleged misconduct, and

(iv) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires,

(b) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing, and

(c) Either a tape-recorded or verbatim record of the hearing shall be made.

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-315, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-315, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. 00-07-018, § 180-40-315, filed 3/3/00, effective 4/3/00. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-315, filed 7/22/96, effective 8/22/96. Statutory Authority: 1979 1st ex.s. c 173 and c 201. 79-11-049 (Order 14-79), § 180-40-315, filed 10/16/79; Order 6-77, § 180-40-315, filed 6/2/77, effective 8/1/77.]

WAC 392-400-317 Appeals—Discipline and short-term suspension grievances. Any school district board of directors may delegate its authority to hear and decide discipline and short-term suspension grievance appeals filed pursuant to WAC 392-400-240 and 392-400-253 to a school district disciplinary appeal council established pursuant to WAC 392-400-310(1).

[Statutory Authority: RCW 28A.305.160. 07-04-048, § 392-400-317, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-317, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-317, filed 7/22/96, effective 8/22/96.]

WAC 392-400-320 School board or disciplinary appeal council decisions. Any decision by a school board of directors or school district disciplinary appeal council pursuant to this chapter to impose or to affirm, reverse, or modify the imposition of discipline, suspension, or expulsion upon a student shall be made:

(1) Only by those board or council members who have heard or read the evidence.

(2) Only by those board or council members who have not acted as a witness in the matter.

(3) Only at a meeting at which a quorum of the board or council is present and by majority vote.

[Statutory Authority: 2006 c 263. 06-14-009, recodified as § 392-400-320, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. 96-15-098, § 180-40-320, filed 7/22/96, effective 8/22/96; Order 6-77, § 180-40-320, filed 6/2/77, effective 8/1/77.]

WAC 392-400-325 Statewide definition of excused and unexcused daily absences.

Excused daily absences

The following are valid excuses for absences from school:

(1) Participation in a district or school approved activity or instructional program;

(2) Illness, health condition or medical appointment (including, but not limited to, medical, counseling, dental or optometry) for the student or person for who the student is legally responsible;

(3) Family emergency including, but not limited to, a death or illness in the family;

(4) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;

(5) Court, judicial proceeding, or serving on a jury;

(6) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;

(7) State-recognized search and rescue activities consistent with RCW 28A.225.055;

(8) Absence directly related to the student's homeless status;

(9) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;

(10) Absence resulting from a disciplinary/corrective action (e.g., short-term or long-term suspension, emergency expulsion); and

(11) Principal (or designee) and parent, guardian, or emancipated youth mutually agreed upon approved activity.

The school principal (or designee) has the authority to determine if an absence meets the above criteria for an excused absence.

Unexcused daily absences

Any absence from school is unexcused unless it meets one of the criteria above for an excused absence.

[Statutory Authority: RCW 28A.300.046. 12-17-051, § 392-400-325, filed 8/9/12, effective 9/9/12.]