

Frazier v. Quick and Oroville School District
Plaintiff/Appellant's Opening Brief

COA NO: 350487

APPENDIX A

28A.405.100. Minimum criteria for the evaluation of certificated employees--Revised four-level evaluation systems for classroom teachers and for principals--Procedures--Steering committee--Models--Implementation--Reports

(1) (a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2) (a) Pursuant to the implementation schedule established in subsection (7)(c) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and the school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning. Student growth data must be a substantial factor in evaluating the summative performance of certificated classroom teachers for at least three of the evaluation criteria listed in this subsection.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. The summative performance ratings shall be as follows: Level 1--unsatisfactory; level 2--basic; level 3--proficient; and level 4--distinguished. A classroom teacher shall receive one of the four summative performance ratings for each of the minimum criteria in (b) of this subsection and one of the four summative performance ratings for the evaluation as a whole, which shall be the comprehensive summative evaluation performance rating. By December 1, 2012, the

superintendent of public instruction must adopt rules prescribing a common method for calculating the comprehensive summative evaluation performance rating for each of the preferred instructional frameworks, including for a focused evaluation under subsection (12) of this section, giving appropriate weight to the indicators evaluated under each criteria and maximizing rater agreement among the frameworks.

(d) By December 1, 2012, the superintendent of public instruction shall adopt rules that provide descriptors for each of the summative performance ratings, based on the development work of pilot school districts under subsection (7) of this section. Any subsequent changes to the descriptors by the superintendent may only be made following consultation with a group broadly reflective of the parties represented in subsection (7)(a) of this section.

(e) By September 1, 2012, the superintendent of public instruction shall identify up to three preferred instructional frameworks that support the revised evaluation system. The instructional frameworks shall be research-based and establish definitions or rubrics for each of the four summative performance ratings for each evaluation criteria. Each school district must adopt one of the preferred instructional frameworks and post the selection on the district's web site. The superintendent of public instruction shall establish a process for approving minor modifications or adaptations to a preferred instructional framework that may be proposed by a school district.

(f) Student growth data that is relevant to the teacher and subject matter must be a factor in the evaluation process and must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. Student growth data elements may include the teacher's performance as a member of a grade-level, subject matter, or other instructional team within a school when the use of this data is relevant and appropriate. Student growth data elements may also include the teacher's performance as a member of the overall instructional team of a school when use of this data is relevant and appropriate. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(g) Student input may also be included in the evaluation process.

(3) (a) Except as provided in subsection (11) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel except where otherwise specified.

(4) (a) At any time after October 15th, an employee whose work is not judged satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. For classroom teachers who have been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section, the following comprehensive summative evaluation performance ratings based on the evaluation criteria in subsection (2)(b) of this section mean a classroom teacher's work is not judged satisfactory:

(i) Level 1; or

(ii) Level 2 if the classroom teacher is a continuing contract employee under RCW 28A.405.210 with more than five years of teaching experience and if the level 2 comprehensive summative evaluation performance rating has been received for two consecutive years or for two years within a consecutive three-year time period.

(b) During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. Days may be added if deemed necessary to complete a program for improvement and evaluate the probationer's performance, as long as the probationary period is concluded before May 15th of the same school year. The probationary period may be extended into the following school year if the probationer has five or more years of teaching experience and has a comprehensive summative evaluation performance rating as of May 15th of less than level 2. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency. Should the evaluator not authorize such additional evaluator, the probationer may request that an additional certificated employee evaluator become part of the probationary process and this request must be implemented by including an additional experienced evaluator assigned by the educational service district in which the school district is located and selected from a list of evaluation specialists compiled by the educational service district. Such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. If a procedural error occurs in the implementation of a program for improvement, the error does not invalidate the probationer's plan for improvement or evaluation activities unless the error materially affects the effectiveness of the plan or the ability to evaluate the probationer's performance. The probationer must be removed from probation if he or she has demonstrated improvement to the satisfaction of the evaluator in those areas specifically detailed in his or her initial notice of

deficiency and subsequently detailed in his or her program for improvement. A classroom teacher who has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section must be removed from probation if he or she has demonstrated improvement that results in a new comprehensive summative evaluation performance rating of level 2 or above for a provisional employee or a continuing contract employee with five or fewer years of experience, or of level 3 or above for a continuing contract employee with more than five years of experience. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer constitutes grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(c) When a continuing contract employee with five or more years of experience receives a comprehensive summative evaluation performance rating below level 2 for two consecutive years, the school district shall, within ten days of the completion of the second summative comprehensive [comprehensive summative] evaluation or May 15th, whichever occurs first, implement the employee notification of discharge as provided in RCW 28A.405.300.

(d) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and program for improvement, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. In the case of a classroom teacher who has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section, the teacher may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year immediately following the completion of a probationary period that does not result in the required comprehensive summative evaluation performance ratings specified in (b) of this subsection. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

(5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(6) (a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii)

demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning. Student growth data must be a substantial factor in evaluating the summative performance of the principal for at least three of the evaluation criteria listed in this subsection.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. The summative performance ratings shall be as follows: Level 1--unsatisfactory; level 2--basic; level 3--proficient; and level 4--distinguished. A principal shall receive one of the four summative performance ratings for each of the minimum criteria in (b) of this subsection and one of the four summative performance ratings for the evaluation as a whole, which shall be the comprehensive summative evaluation performance rating.

(d) By December 1, 2012, the superintendent of public instruction shall adopt rules that provide descriptors for each of the summative performance ratings, based on the development work of pilot school districts under subsection (7) of this section. Any subsequent changes to the descriptors by the superintendent may only be made following consultation with a group broadly reflective of the parties represented in subsection (7)(a) of this section.

(e) By September 1, 2012, the superintendent of public instruction shall identify up to three preferred leadership frameworks that support the revised evaluation system. The leadership frameworks shall be research-based and establish definitions or rubrics for each of the four performance ratings for each evaluation criteria. Each school district shall adopt one of the preferred leadership frameworks and post the selection on the district's web site. The superintendent of public instruction shall establish a process for approving minor modifications or adaptations to a preferred leadership framework that may be proposed by a school district.

(f) Student growth data that is relevant to the principal must be a factor in the evaluation process and must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(g) Input from building staff may also be included in the evaluation process.

(h) For principals who have been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section, the following comprehensive summative evaluation performance ratings mean a principal's work is not judged satisfactory:

(i) Level 1; or

(ii) Level 2 if the principal has more than five years of experience in the principal role and if the level 2 comprehensive summative evaluation performance rating has been received for two consecutive years or for two years within a consecutive three-year time period.

(7) (a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, school board members, and parents, to be known as the steering committee, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (d) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) Each school district board of directors shall adopt a schedule for implementation of the revised evaluation systems that transitions a portion of classroom teachers and principals in the district to the revised evaluation systems each year beginning no later than the 2013-14 school year, until all classroom teachers and principals are being evaluated under the revised evaluation systems no later than the 2015-16 school year. A school district is not precluded from completing the transition of all classroom teachers and principals to the revised evaluation systems before the 2015-16 school year. The schedule adopted under this subsection (7)(c) must provide that the following employees are transitioned to the revised evaluation systems beginning in the 2013-14 school year:

(i) Classroom teachers who are provisional employees under RCW 28A.405.220;

(ii) Classroom teachers who are on probation under subsection (4) of this section;

(iii) Principals in the first three consecutive school years of employment as a principal;

(iv) Principals whose work is not judged satisfactory in their most recent evaluation; and

(v) Principals previously employed as a principal by another school district in the state of Washington for three or more consecutive school years and in the first full year as a principal in the school district.

(d) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and

classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011, report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

(e) (i) The steering committee in subsection (7)(a) of this section and the pilot school districts in subsection (7)(d) of this section shall continue to examine implementation issues and refine tools for the new certificated classroom teacher evaluation system in subsection (2) of this section and the new principal evaluation system in subsection (6) of this section during the 2013-14 through 2015-16 implementation phase.

(ii) Particular attention shall be given to the following issues:

(A) Developing a report for the legislature and governor, due by December 1, 2013, of best practices and recommendations regarding how teacher and principal evaluations and other appropriate elements shall inform school district human resource and personnel practices. The legislature and governor are provided the opportunity to review the report and recommendations during the 2014 legislative session;

(B) Taking the new teacher and principal evaluation systems to scale and the use of best practices for statewide implementation;

(C) Providing guidance regarding the use of student growth data to assure it is used responsibly and with integrity;

(D) Refining evaluation system management tools, professional development programs, and evaluator training programs with an emphasis on developing rater reliability;

(E) Reviewing emerging research regarding teacher and principal evaluation systems and the development and implementation of evaluation systems in other states;

(F) Reviewing the impact that variable demographic characteristics of students and schools have on the objectivity, reliability, validity, and availability of student growth data; and

(G) Developing recommendations regarding how teacher evaluations could inform state policies regarding the criteria for a teacher to obtain continuing contract status under RCW 28A.405.210. In developing these recommendations the experiences of school districts and teachers during the evaluation transition phase must be considered. Recommendations must be reported by July 1, 2016, to the legislature and the governor.

(iii) To support the tasks in (e)(ii) of this subsection, the superintendent of public instruction may contract with an independent research organization with expertise in educator evaluations and knowledge of the revised evaluation systems being implemented under this section.

(iv) The superintendent of public instruction shall monitor the statewide implementation of revised teacher and principal evaluation systems using data reported under RCW 28A.150.230 as well as periodic input from focus groups of administrators, principals, and teachers.

(v) The superintendent of public instruction shall submit reports detailing findings, emergent issues or trends, recommendations from the steering committee, and pilot school districts, and other recommendations, to enhance implementation and continuous improvement of the revised evaluation systems to appropriate committees of the legislature and the governor beginning July 1, 2013, and each July 1st thereafter for each year of the school district implementation transition period concluding with a report on December 1, 2016.

(8) (a) Beginning with the 2015-16 school year, evaluation results for certificated classroom teachers and principals must be used as one of multiple factors in making human resource and personnel decisions. Human resource decisions include, but are not limited to: Staff assignment, including the consideration of an agreement to an assignment by an appropriate teacher, principal, and superintendent; and reduction in force. Nothing in this section limits the ability to collectively bargain how the multiple factors shall be used in making human resource or personnel decisions, with the exception that evaluation results must be a factor.

(b) The office of the superintendent of public instruction must report to the legislature and the governor regarding the school district implementation of the provisions of (a) of this subsection by December 1, 2017.

(9) Each certificated classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

(10) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(11) After a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an

evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise. The provisions of this subsection apply to certificated classroom teachers only until the teacher has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section.

(12) All certificated classroom teachers and principals who have been transitioned to the revised evaluation systems pursuant to the district implementation schedule adopted under subsection (7)(c) of this section must receive annual performance evaluations as provided in this subsection:

(a) All classroom teachers and principals shall receive a comprehensive summative evaluation at least once every four years. A comprehensive summative evaluation assesses all eight evaluation criteria and all criteria contribute to the comprehensive summative evaluation performance rating.

(b) The following categories of classroom teachers and principals shall receive an annual comprehensive summative evaluation:

(i) Classroom teachers who are provisional employees under RCW 28A.405.220;

(ii) Principals in the first three consecutive school years of employment as a principal;

(iii) Principals previously employed as a principal by another school district in the state of Washington for three or more consecutive school years and in the first full year as a principal in the school district; and

(iv) Any classroom teacher or principal who received a comprehensive summative evaluation performance rating of level 1 or level 2 in the previous school year.

(c)(i) In the years when a comprehensive summative evaluation is not required, classroom teachers and principals who received a comprehensive summative evaluation performance rating of level 3 or above in the previous school year are required to complete a focused evaluation. A focused evaluation includes an assessment of one of the eight criteria selected for a performance rating plus professional growth activities specifically linked to the selected criteria.

(ii) The selected criteria must be approved by the teacher's or principal's evaluator and may have been identified in a previous comprehensive summative evaluation as benefiting from additional attention. A group of teachers may focus on the same evaluation criteria and share professional growth activities. A group of principals may focus on the same evaluation criteria and share professional growth activities.

(iii) The evaluator must assign a comprehensive summative evaluation performance rating for the focused evaluation using the methodology adopted by the superintendent of public instruction for the instructional or leadership framework being used.

(iv) A teacher or principal may be transferred from a focused evaluation to a comprehensive summative evaluation at the request of the teacher or principal, or at the direction of the teacher's or principal's evaluator.

(v) Due to the importance of instructional leadership and assuring rater agreement among evaluators, particularly those evaluating teacher performance, school districts are encouraged to conduct comprehensive summative evaluations of principal performance on an annual basis.

(vi) A classroom teacher or principal may apply the focused evaluation professional growth activities toward the professional growth plan for professional certificate renewal as required by the professional educator standards board.

(13) Each school district is encouraged to acknowledge and recognize classroom teachers and principals who have attained level 4--distinguished performance ratings.

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APPENDIX B

RCW 28A.405.220

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the employee has received an evaluation rating below level 2 on the four-level rating system established under RCW 28A.405.100 during the third year of employment, in which case the employee shall remain subject to the nonrenewal of the employment contract until the employee receives a level 2 rating; or (c) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as “provisional employees.”

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts

upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW. (emphasis added)

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APPENDIX C

STANDARD TORT CLAIM FORM

General Liability Claim Form #SF 210

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and may be subject to public disclosure.

PLEASE TYPE OR PRINT CLEARLY IN INK

Mail or deliver Oroville School District #410
original claim to 816 Juniper Street
Oroville, WA 98844

c/o Ms. Rockie Hansen
4718 S. Magnolia
Spokane, WA 99223
Fax: 509-448-1731
Email: rockieh@rockilaw.com

1. Claimant's name: Frazier Ryan William Arthur 08/15/1986
Last name First Middle Date of birth (mm/dd/yyyy)
2. Inmate DOC number (if applicable): not applicable
3. Current residential address: 403 9th Street, Oroville, WA 98844
4. Mailing address (if different): P.O. Box 1197, Oroville, WA 98844
5. Residential address at the time of the incident: _____
(if different from current address)
6. Claimant's daytime telephone number: (509) 560-3829 _____
Home Business or Cell
7. Claimant's e-mail address: frazieryan1986@gmail.com
8. Date of the incident: 06/23/2014 Time: 06:00 a.m. p.m. (check one)
(mm/dd/yyyy)
9. If the incident occurred over a period of time, date of first and last occurrences:
from 05/14/2014 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
to 06/23/2014 Time: _____ a.m. p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
10. Location of incident: Washington, Okanogan County, Oroville
State and county City, if applicable Place where occurred

11. If the incident occurred on a street or highway:

Not applicable.

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
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12. State agency or department alleged responsible for damage/injury:

Oroville School District

13. Names, addresses and telephone numbers of all persons involved in or witness to this incident:

Steve Quick, 509-560-3641; Rock Devon, 509-476-4444; Amy Wise 509-476-3637;

Travis London, 509-476-2256; Todd Hill, 509-476-3171; Brad Scott, 509-485-3101;

14. Names, addresses and telephone numbers of all state employees having knowledge about this incident:

Linda Colvin, 509-476-2861; Charles Recevuto, 509-476-2804; Ed Booker, 509-322-7676,

Kristin Sarmiento, 509-476-2461

15. Names, addresses and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

Parents and members of the public, including but limited to, Dusti & John Giroux, 509-476-2362; Lisa Cone; Marj Jameson, 509-476-3645; Arnie Marchan, 509-476-2440;

Connie Rounds, 509-476-3805; Ron & Yvonne McDougal, 509-476-3477; James & Mary Lou Gutschmidt, 509-485-2908; Marilyn Wilder, 509-476-3629; Chuck Wilder;

Reta Emry, 509-476-3488; Bliss Gowen, 509-429-6390; Cindy Tretainer, 509-486-3201; Julie Schildgen, 509-3405.

A complete list of individuals who attended the school board meeting should be available from the Secretary of the Board.

16. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See attached.

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

Not applicable.

18. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

Not applicable at this time.

19. Please attach documents which support the allegations of the claim.

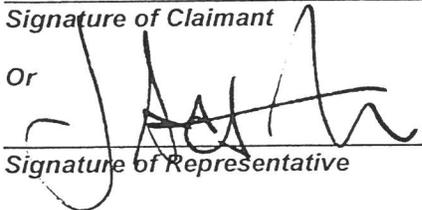
20. I claim damages from Oroville School District #410 in the sum of \$175,000 (5 years lost wages).

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant, by the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signature of Claimant

Or



Signature of Representative

J. Scott Miller

Print Name of Representative

Date and place (residential address, city and county)

February 26, 2015, Spokane, WA

Date and place (residential address, city and county)

14620

Bar Number (if applicable)

STANDARD TORT CLAIM FORM

CLAIMANT: Ryan Frazier

ATTACHMENT TO #16:

Oroville School District #410, by and through the members of its Board of Directors, wrongfully failed and refused to properly evaluate the first year of teaching performance by Ryan Frazier and consequently improperly did not renew his teaching contract. The Board negligently, intentionally, recklessly and/or otherwise wrongfully, failed or refused to supervise Superintendent Steve Quick, who also serves as secretary of the board. The members of the Board knew or should have known that Quick did not submit letters and other information from his immediate supervisor, teachers, parents, and members of the public which supported Mr. Frazier's contract renewal and refused to let them speak at the meeting where the Board voted not to renew Mr. Frazier's contract in violation of Washington law. The Board also knew or should have known that Quick violated the Collective Bargaining Agreement with the Oroville Education Association specifically including but not limited to the Memorandum of Understanding at Appendix I that required use of newly enacted state statutory guidelines for evaluation of Mr. Frazier as a provisional/probationary teacher. The Board also knew or should have known that Quick recommended nonrenewal of Mr. Frazier's teaching contract based on personal animus and discrimination rather than objective guidelines as required by state law. Furthermore, the Board adjourned to a secret location to prevent the public from participating in the meeting in violation of Washington law including Chapter 42.30 RCW, and refused to allow anyone to comment on the proposal to renew Quick's contract, although individuals had signed-up to speak.

Emotional Distress Claim #1: HUMILIATION: I was being bullied into begging for my job by Steve Quick. Stated as "humble pie" in Linda Colvin's letter regarding the meeting to keep my job on May 28th. Steve Quick was wanting me to beg for my job and admit I was wrong when his accusations were false. In an email dated May 28, 2014 between Kristin Sarmiento to Quick it stated, "As for his plan, he DOES have plans, he has notebooks of all his plans and he actually spends more time planning than most teachers." Even though my evaluator stated to Steve Quick before my meeting May 28th that I lesson plan, Steve Quick falsified statements in his letter of non-renewal to the school board that I did not lesson plan. Steve Quick refused to look at any evidence denying my rights in RCW 28A.405.220 because he wanted me to grovel on my knees (it seemed) to keep my job. He wanted to control me. When I was first hired at OHS Steve Quick asked my principal "can you control him". Steve Quick was also trying to get rid of my

evaluator by making false statements as well during the 2014 school year. He even went as far to write a letter of resignation for my evaluator without her knowledge or permission. This is just one example of how Steve Quick wishes to control all those who are underneath him. This was humiliating and I felt I should not have to beg or apologize for false statements made against me when I had evidence present in front of Steve Quick that disproved his statements.

4. Emotional Distress #2: LOSS OF FAMILY HOME: I was offered a chance to buy my Great Grandfather's house. I was currently living in that house while working at OHS. My uncle had to sell the house. I was unable to buy the house because Quick made me unsure if I was keeping my job. This made me lose a house I cared for greatly that had been in the family for 3 generations.

5. Emotional Distress #3: LOSS OF TEACHING CAREER: The decision to nonrenew me was based on 1 letter of nonrenewal made by Steve Quick. Several staff members, community and students wrote letters of support. Only one of the letters by staff, was placed in my file. Steve Quick's letter is in my file with false statements, so when a school district pulls my records and looks at them they will see a teacher that (according to Steve Quick) does not prepare a lesson plan, does not participate in school events, and has a horrible attitude. The staff and community would say otherwise. I cannot apply at a teaching job until my record is clear because I do not want my first impression on a school to be the false picture Steve Quick has painted of me.

6. Emotional Distress #4: PUBLIC HUMILIATION: Many people in town turned out to support me for renewal at OHS. To this day Quick has not stated the real reason why I was not renewed. The public also does not know why I was not renewed. The school board meeting took place behind closed doors, which leads people to make up their own judgments of what I did to not be renewed as a teacher. Several articles are in the paper about me and my nonrenewal. The fact that I was non renewed gives the community the incorrect impressions I did something to deserve such treatment. Also, it shows all local and surrounding towns and cities who have access to the paper that I was nonrenewed.

7. Emotional Distress #5: LOSS OF SLEEP: While teaching I was sleeping great because I finally felt secure and safe with a job and my income. I also had a great diet which helped with my sleep because I could afford good food for once in my life. After losing my job I have had troubles sleeping and feel stressed because I no longer know where I am going to work or live.

8. Emotional Distress #6: POOR DIET: I was able to have a healthy diet while working at OHS, allowing me to eat more fruits and vegetables. A better diet made me want to be active and promoted better sleep. Since I have been non renewed I have seen my ability to buy quality foods slip away.

9. Emotional Distress #7: DEPRESSION: I worked 5 years to get a teaching degree. I graduated near the top of my class. I worked hard in 2 schools and made great relationships with them during my time there. I wanted to give back to my home town and make the school a better place. My high school and junior high students did the same type of college work I did while at WVC and EWU. I worked longer hours than majority of all teachers in OHS and stayed well past midnight several nights. My students presented to every class at OHS and even to a state senator. I worked so hard to do anything I could to help out at OHS outside of my own job duties. I chaperoned dances, drove kids to WSU, and even went to training in Walla Walla. I did all this work and had so much support only to be taken down by one man's letter. Steve Quick. This made me lose faith in the educational system and process. It also made me loose a little in myself. I learned no matter how hard I work and no matter how many great things I do in education I can lose my job if one man does not like me.

10. Emotional Distress #8: LOSS OF EQUAL OPPORTUNITY: I was denied my rights for equal opportunity. In Steve Quick's email dated April 28th to Kristin Sarmiento, Quick stated that he was going to pull ALL provisional staff from the list to rehire. My name was the only name pulled off the list. Also he stated that another provisional employee had some problems to work on just like me, but he did not take any action to non-renew that employee. This was right before he stated in his email that; "...I'll probably simply call an executive session and let the board know that both have some things to work on, but we would like to have one more year to do so. I know there are concerns, but if they can be remedied, I'd prefer to give them a chance to do so." This was a false statement because I was never given a chance to be "remedied".

TIME: I have spent countless hours organizing and preparing evidence to support that Steve Quick's accusations of me are false. I spent hours gathering evidence to show student work and lesson plans. Hours for this are at minimal 200.

2. MAIL MONEY: I spent at least \$200 in mailing, faxing and photo coping evidence for my case before and after my nonrenewal.

3. GAS MONEY: I have spent at least \$150 in gas driving around places to make pictures, photo copies and send out mail.

Teaching Salary: \$34,506 during my time at OHS. If I were to work 2014-2015 It would have been \$35,000 for the year. This does not include the extra 3 days of non contracted days I would receive at \$191.70 for that year as well. I am requesting 5 years of front pay which I estimate as the length of time which I will be unable to teach.

2. **Medical Insurance:** The cost of obtaining replacement coverage has not yet been determined.

3. **Loss of Masters Degree Scholarship:** The Gear Up program at OHS was potentially going to pay for my masters if I worked at OHS for 2 years. I was unable to take this opportunity because of non renewal. A Master Degree is expensive, and the wage increase for a teacher after receiving one includes a \$10,000 bonus. This total value of this loss has not yet been calculated.

4. **Loss of potential for international teaching.**