

66908-7

66908-7

No.66908-7-1 (Consolidated w/No. 66909-5-1)

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON
One Union Square 600 University Street
Seattle, WA 98101-4170

GRAZYNA PROUTY, Appellant or Petitioner

v.

TAHOMA SCHOOL DISTRICT BOARD, Respondent

PETITIONER'S/APPELLANT'S

RESPONSE BRIEF

Grazyna Prouty, Appellant
ELL (English Language Learners' teacher
Certified and Endorsed in the State of Washington
Professional Continuing Teaching Certificate)
Filing the Response Brief

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Kent, WA 98031
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COURT OF APPEALS DIV I
STATE OF WASHINGTON
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The following representation in the consolidated cases: No.66908-7-1
(Consolidated w/No. 66909-5-1)

Petitioner:

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Respondent:

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Chairwoman

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TABLE OF AUTHORITIES

Table of Cases

1. Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 09-2-21771-8 SEA
Judge Julie Spector ordered the board to reconsider the matter.

"The court finds, based upon a review of the entire administrative record, that there is insufficient evidence for any reasonable member to approve selection of the Discovering series."

(Exhibit C p. 1):

1. On May 6, 2009, in a 403, the Seattle School District Board of Directors chose the Discovering Series as the District's high school basic math materials.

2. In making its decision, the Board considered:

(Exhibit C p. 2)

- a. A recommendation from the District's Selection Committee;
- b. A January, 2009 report from the Washington State Office of Public Instruction ranking High School math textbooks, listing a series by the Holt Company as number one, and the Discovering Series as number two.
- c. A March 11, 2009, report from the Washington State Board of Education finding that the Discovering Series was "mathematically unsound"
- d. An April 8, 2009 School Board Action Report Authored by the Superintendent
- e. The May 6, 2009 School Board recommendation of the OSPI recommending only the Holt Series, and not recommending the Discovering Series

g. WASL scores from an experiment (...) dropped significantly for English Language Learners, including 0 % pass rate at one high school.

j. Parent reports of difficulty teaching their children using the Discovering Series

l. One Board member also considered the ability of her own child to learn math using the Discovering Series

(Exhibit C p. 3)

4. The court finds, based upon a review of the entire administrative record, that there is insufficient evidence for any reasonable Board member to approve the selection of the Discovering Series.

In Conclusion of Law:

1. The court has jurisdiction under RCW 28A.645.010 to evaluate the Board's decision (...)

4. The court has the authority to remand the Board's decision for further review;

ORDER:

The decision of the Board to adopt the Discovering Series is remanded for further proceedings consistent with this opinion.
(Dated 4th day of February, 2010)

2. Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 65036-0-I – March 28,

2011 had committees RCW 28A.320.230 (1) (c):

“more than half the committee must be professional staff; the remaining members may include parents.”

“The Board can only approve or disapprove recommendation of the instructional materials committee. The adoption committee creates textbook selection criteria, reviews textbooks and

community input, and recommends a set of textbooks for adoption.”

In Seattle:

“According to the certified record of the Board proceedings in this matter, the Seattle School District last adopted high school math books in 1992. By 2008, many of the books were damaged and there were not enough for students.”

It is clear that the Seattle School District followed the

RCW 28A.645.020:

“Within twenty days of service of the notice of appeal, the school board, at its expense, or the school official, at such official’s 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. Such filings shall be certified to be correct.”

3. Engrossed Second Substitute Senate Bill 6696 passed Legislature – 2010 (the law).

AN ACT Relating to education reform (...) 41.59 RCW;

4. Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007.

“First of all, this decision should in no way be construed to find or even suggest that the legislature has not provided for full funding of education in the Federal Way School District.”

“This decision will only be temporary.”

“The losing party on each issue will appeal this matter to the Washington State Supreme Court who will review this matter completely anew based upon a record presented to this court. Their decision will be the final word.”

“After 14 years in legislature I am well aware of equalization attempts.”

“You are never a prophet in your own land.”

“Because of the ranges there 258 different funding level’s for the (...) school districts.

(...) in 2006-2007 Federal Way paid an average of \$ 94,436 per administrator (...). Teaching staff is the closest in equality.

“The Plaintiffs have failed to prove beyond the reasonable doubt that they are not amply funded.” –

Reference to Article, IX of the Washington State Constitution:

(...) “ample provision for the education of all children residing within its borders.”

Reference to Article, IX of the Washington State Constitution:

“The legislature shall provide for a general and uniform system of public schools.”

3. The State Constitution in Article 1 requires equal protection under the law.

(...) “Disparate treatment of similarly situated individuals have the right to be treated equally under the law”.

The court found:

(...) “the disparate funding violates the constitutional equal protection rights of (...) teachers, students, and taxpayers.”

5. Glenda Hall-Davis, App. V. Honeywell, Inc., et al. (C o A Champaign County, Ohio: C.A. Case No. 2008 CA 1, 2008 CA 2, T.C. No. 2006 CV 220, February 2008.

“On August 11, 2005, Hall-Davis voluntarily dismissed both matters pursuant to Civ.R.41 (A)(1)(a). On August 3, 2006, Hall-Davis refilled one Complaint that provided (...)

30. “The court of appeals agreed, adopting the reasoning expressed in Johnson v. Manhattan Ry. Co. (1933), 289 U.S. 479, 496, that “consolidation is permitted as a matter of convenience and economy in administration, but does not merge

the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another.”
Transcon Builders, Inc. supra, at 150. See also *Townsend v. Downing* (1989), 58 Ohio App. 3d 59, fn. 1; *Kraft, Inc. v. Local Union 327 Teamsters, etc.*(C.A.6, 1982), 683 F.2d 131, 133, in which the court concluded that the consolidation of the two causes involved in that case “did not merge the suits into a single cause.”

“We have repeatedly held that the “term “abuse of discretion” connotes more than an error of law or of a judgment; it implies that the court’s attitude is unreasonable, arbitrary, and unconscionable.”

Wilmington Steel Products, Inc. v. Cleveland Electric Illuminating Co. (1991), 60 Ohio St.3d 120, 121-22, 573 N.E2d 622.

6. Kuldeep Nagi v. Seattle School District, Decision 5237
(EDUC, 1995)

Collateral estoppel Inapplicable [40]

“The burden of proof that collateral estoppel applies in a given situation is on the party urging that it should. McDaniel’s v. Carlson, 108 Wn.2d 299, 303 (1987). Collateral estoppel prevents relitigation of an issue or factual determination. Numerous preconditions must exist before the theory is applied. The party to be estopped must have had a full and fair opportunity to have presented her or his case in the first proceeding; the first proceeding must have been finally decided; the issues in the two proceeding must have been identical; the issue or factual finding must have been important in the prior proceeding, and application of collateral estoppel in the second proceeding cannot work an injustice. Lutheran Day Care v. Snohomish County, 119 Wn.2d 91, 114-116 (1992), cert. den. __US__, 113 Sct 1044, 122 Led 2d 353 (1993) [41]

It is evident that collateral estoppel does not apply in present circumstance.

The issue must be identical in both cases for collateral estoppel to govern the second proceeding (...)

“Identity of defenses does not translate automatically into identity of issues.”

“The employer must fully explain why it acted as it did.”.
Tahoma must fully explain why it acted as it did.

“The facts of Barr and Cascade Nursing Services clearly indicate collateral estoppel would not determine this Chapter 41.59 proceeding even if its issues were identical to those of the Chapter 28A.405 proceeding. In Barr, a judge approved the structured settlement of a personal injury action as reasonable in all aspects, including the attorneys’ fee agreement. When the injured person died soon thereafter, his widow sued the attorneys for excessive fees, and failure to advise that the injured person fragile health made a lump sum settlement more beneficial for them than a settlement paid over a number of years. The attorneys relied on collateral estoppel and lost.

The Court reasoned the attorneys’ fee arrangement had been tangential to the propriety of the settlement agreement, while the adequacy of their advice had been irrelevant. Therefore, the malpractice action was not precluded by the earlier approval of the personal injury settlement.

Cascade Nursing Services considered whether a nurse referral service was the employer of the nurses for unemployment compensation purposes. The referral service argues an earlier decision in an industrial insurance case should control through collateral estoppel. The industrial insurance case had held that the Referred nurses worked for the hospitals to which they were sent. The court rejected the argument because, though the same question arose in both cases, two different legal standards in the Chapter 28A.405 and Chapter 41.59 proceedings differ. The employer has not shown evidence of a discriminatory motivation would have prevented the Chapter 28A.405 hearing officer from finding that sufficient cause for non-renewal had been established, even though the probation had been properly conducted and the evidence confirmed the reasons in the nonrenewal notice. Accordingly, possible discriminatory motivation was legally irrelevant in the statutory hearing proceeding. [42]

Finally, there is a serious deficiency in the employer’s case even if the Examiner were to conclude that the legal theory of collateral estoppel applied to the Chapter 41.59 proceeding. The employer introduced the Chapter 28A.405 hearing officer’s decision, the superior court order affirming it, and the oral closing argument Nagi’s attorney made [43]

to the Chapter 28A.405 hearing officer. The Exhibits and transcript of the Chapter 28 A.405 hearing were not introduced in the Chapter 41.59 proceeding. This minimal record falls short of the legal requirement. Where collateral estoppel is argued, the entire record of the prior action must be made available to the court. Bunce Rental, Inc. v. Clark Equipment Co., 42 Wn. App. 644, 647-648 n. 4 (Div. II, 1986).

City of Yakima v. International Association of Fire Fighters, 117 Wn.2d 655 (1991), does grant jurisdiction over an unfair labor practice Complaint to the Superior Court or the Commission depending on which received the claim first.”

7. Kuldeep Nagi v. Seattle School District, Decision 5237 -B
(EDUC, 1996)

Nagi exercised his seniority rights under the collective bargaining agreement, and returned to Roosevelt for the 1992-1993 school year. His assignment included remedial math classes designed as compensatory or recovery classes for those students who have failed mainstream classes. These classes are not favored among teachers, as the students often have a history of emotional or family problems, crime, drug abuse, and homelessness.

On January 22, 1993, the union filed a grievance on Nagi's behalf, grieving the unsatisfactory performance evaluation.^{1[7]} The union requested the employer to destroy the unsatisfactory evaluation and cooperate with Nagi in efforts to improve the quality of education of his students.

RCW 41.59.140 UNFAIR LABOR PRACTICES
FOR EMPLOYER, EMPLOYEE

ORGANIZATION, ENUMERATED. (1) It shall be an unfair labor practice for an employer:

- (a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060.
- (b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;
- (c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100;
- (d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this chapter;
- (e) To refuse to bargain collectively with the representatives of its employees.

8. Decision # 3142 and Matter of Peugnet A-27538066
In Deportation Proceedings (Decided by the Board January 29, 1991). Miami, Florida. P. 233

“(4) An alien’s deportation hearing may not proceed in absentia where the Order to Show Cause is sent to the alien’s address by regular mail and is not reserved by personal service (...) after the alien fails to appear for the hearing or acknowledge that he has received the Order to Show Cause.”

(Exhibit C p. 3)

9. Randy Francisco, Respondent v. Board of Directors of the Bellevue Public Schools, Appellant No. 2026-1, 11 Wn. App. 766 (1974), 525.P2d278. (August 14, 1974)

“de novo” requirement supported by three courts of Appeals. Hattrick v. North Kitsap School District 402, 81 Wn.2d 668, 504 P.2d.302 (1972); Denton v. South Kitsap School District 402, 10 Wn. App. 69, 516 P.2d 1080 (1973); Reagan v. Board of Directors, 4 Wn. App. 279, 480 P. 2d 807 (1971).

The legislative intent is clear that the discharged teacher have a full de novo review on the merits in a new trial in a superior court.

Quotes:

Reagan v. Board of Directors 4 Wn.App.279,480 P.2d 807
states:

“The one against whom waiver is claimed (...) “must intend to relinquish such right, advantage (or benefit; and his intentions must be inconsistent with any other intention than to waive them.”

And - concerning re-employment:

“If such notification and opportunity for hearing is not timely given by the district , the employee entitled thereto shall be conclusively presumed to have been re-employed by the district for the next ensuing terms which would have prevailed if his employment had actually been renewed by the board of directors for such ensuing term.”

Also: quoted RCW 28A.58.515: (corresponds to RCW.28A.405.380)

“the teacher elects to appeal the board’s notification of probable cause for discharge “directly to the superior court of the county in which the school district is located”

Hill v. Dayton School District 10 Wn. App. 251, 517 P.2d 223:

Under RCW 28A.58.490 the court in its discretion may award to an employee a reasonable attorney's fee, together with his taxable costs in the superior court.

Barnard v. Board of Education, 19 Wn. 8, 52P.317 (1898)

(In Randy Francisco, Respondent v. Board of Directors of the Bellevue Public Schools, Appellant No. 2026-1, 11 Wn. App.p. 772 (1974),

Demonstrate that "employment rights of schoolteachers have historically been "within the power of courts to protect," and under that "test," the school board performs a "judicial" function when it orders the discharge of the teacher for cause.

10. Second Substitute Senate Bill 5973 (the law).

11. Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for the Superintendent of Public Instruction.

Computation of time rule WAC 10-08-080.

Hearing was postponed, continuance:

"On Prehearing Order dated April 5, 2001, (...) continued to June 25 and 26, 2001.

On July 5, 2001, the Parents submitted a Reply Brief.

The issue for hearing is:

Whether the District's request to proceed with the evaluation of the Student by (...), over the objection of the Parent, should be granted.

WAC 392-172-111 "The evaluation of a student

WAC 392-172-108 (2)

“The evaluation of a student shall be made by a multi disciplinary team. The multi-disciplinary team is a group of professionals (...).

(Exhibit D p. 10):

15. “It is also consistent with the larger purpose of IDEA – to obligate school districts receiving federal funds to comply with its obligations to identify, evaluate, and serve, eligible students. 20 U.S.C. Sec.1412 (a). Although parents participate in the process they do not become responsible and accountable for the procedural and substantive requirements for child find, appropriate evaluations and/or, IEPs

(Exhibit D p. 10):

16. “The IDEA also contains dispute resolution process (...). Specifically, it relates to disputes about evaluations, it provides the right of the parent to obtain an independent educational evaluation at public expense. 34 C.F.R. Sec. 300.502 and WAC 392-172-150. The right to an independent educational evaluation at public expense is a specific remedy to address the potential for the disagreement with the district evaluation process, due to bias or other reasons that may result in an inappropriate district evaluation.

As the court stated in *Andress*: “It would be incongruous under the statute to recognize that the parents have a reciprocal right to an independent evaluation, but the school does not,” *Andress v. Cleveland Indep. Sch. Dist.* 64 F.3d 176, 178 (5th Cir. 1995).

Intervention in the District’s Selection Process

18. Having held that the District is seeking to override the Parents objection to the evaluation, the issue becomes whether the District has complied with the regulations in conducting that portion of the evaluation in dispute and whether, over the Parents objection, the ALJ should allow the District to proceed with the intended evaluation.

19. Turning first to the regulation at issue, WAC 392-172-108, the ALJ notes that the constraints that operate against the school district’s discretion in the selection of its evaluators are found in provision (3) and

(13)(a)(ii). The first provides that the selected evaluator must be appropriately credentialed, etc.

20. The second constraint, (13)(a)(ii), provides that if a medical evaluation is obtained it must be in accordance with criteria established by the school district. Generally, such criteria would relate to qualifications and costs, a discussion seen more often in the context of an independent educational evaluation (IEE) regulation. (See WAC 392-172-150(10) related to agency criteria). Hypothetically, a district might have a policy that includes parents in the selection process. In such an instance, a parent may be able to seek to enforce that policy through the invocation of WAC 392-172-108(13).
26. (...) the ALJ is not deciding whether the Parents have a good reason not to trust Dr. (...). That may come an issue in a subsequent process hearing (...).

APPEAL RIGHTS:

“This is a final agency decision subject to a petition for reconsideration filed within ten days of service pursuant to RCW 34.05.470. Such a petition must be filed with (...). A copy of the petition must be served on each party to the proceeding and the Superintendent of Public Instruction. The filing of the petition for reconsideration is not required before seeking judicial review.

(Exhibit D p. 13)

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

(Exhibit D p. 14).

Certificate of mailing states:

“This certifies that a copy of the above Findings of Fact, Conclusions of Law and Order was served upon the parties or their representatives on 7/23/01, by depositing a copy of same in the United States mail, postage prepaid, addressed to the following:”

Constitutional Provisions

1. Constitution of the United States Article IV. Section 1
2. Bill of Rights in Preamble states:

(...) adopting the Constitution, expressed a desire, in order misconstruction or abuse of its powers (...)

The Bill of Rights is “a vital symbol of the freedoms and the as it protects” fundamental principles of human liberty”.

3. Constitution of the State of Washington (revised 01-12-11).

Article VII, Section 7 Annual Statement, relation to RCW 28 A.400.030

Article IX Section 5 addresses Mismanagement.

Statutes

1. RCW 28A.150.210
Basic Education act – Goal:

“The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and

gives all students the opportunity to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

Findings -- Intent -- 1993 c 336: "The legislature finds that student achievement in Washington must be improved to keep pace with societal changes, changes in the workplace, and an increasingly competitive international economy.

To increase student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on the educational performance of students, that includes high expectations for all students, and that provides more flexibility for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

(1) Establishing what is expected of students, with standards set at internationally competitive levels;

(2) Parents to be primary partners in the education of their children, and to play a significantly greater role in local school decision making;

(3) Students taking more responsibility for their education;

(4) Time and resources for educators to collaboratively develop and implement strategies for improved student learning;

(5) Making instructional programs more relevant to students' future plans;

(6) All parties responsible for education to focus more on what is best for students; and

(7) An educational environment that fosters mutually respectful interactions in an atmosphere of collaboration and cooperation.

It is the intent of the legislature to provide students the opportunity to achieve at significantly higher levels, and to provide alternative or additional instructional opportunities to help students who are having difficulty meeting the essential academic learning requirements in RCW 28A.630.885.

It is also the intent of the legislature that students who have met or exceeded the essential academic learning requirements be provided with alternative or additional instructional opportunities to help advance their educational experience.

Findings -- 1993 c 336: "(1) The legislature finds that preparing students to make successful transitions from school to work helps promote educational, career, and personal success for all students.

(2) A successful school experience should prepare students to make informed career direction decisions at critical points in their educational progress. Schools that demonstrate the relevancy and practical application of course work will expose students to a broad range of interrelated career and educational opportunities and will expand students' post high school options.

(3) The school-to-work transitions program, under chapter 335, Laws

of 1993, is intended to help secondary schools develop model programs for school-to-work transitions. The purposes of the model programs are to provide incentives for selected schools to:

- (a) Integrate vocational and academic instruction into a single curriculum;
- (b) Provide each student with a choice of multiple, flexible educational pathways based on the student's career interest areas;
- (c) Emphasize increased vocational and academic guidance and counseling for students;
- (d) Foster partnerships with local employers and employees to incorporate work sites as part of work-based learning experiences;
- (e) Encourage collaboration among middle or junior high schools and secondary schools in developing successful transition programs and to encourage articulation agreements between secondary schools and community and technical colleges.

(4) The legislature further finds that successful implementation of the school-to-work transitions program is an important part of achieving the purposes of chapter 336, Laws of 1993." [1993 c 336 § 601.]

2. RCW 28A.150.210 Change in 2011 (See 5392- S.SL).

Basic education – Goals of school districts (Effective September 1, 2011).

A basic education is an evolving program of instruction that is intended to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and gives all students the opportunity to achieve personal and academic success. To these ends, the goals

of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities

To increase student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on the educational performance of students, that includes high expectations for all students, and that provides more flexibility for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

(1) Establishing what is expected of students, with standards set at internationally competitive levels;

(2) Parents to be primary partners in the education of their children, and to play a significantly greater role in local school decision making;

(3) Students taking more responsibility for their education;

(4) Time and resources for educators to collaboratively develop

and implement strategies for improved student learning;

(5) Making instructional programs more relevant to students' future plans;

(6) All parties responsible for education to focus more on what is best for students; and

(7) An educational environment that fosters mutually respectful interactions in an atmosphere of collaboration and cooperation.

It is the intent of the legislature to provide students the opportunity to achieve at significantly higher levels, and to provide alternative or additional instructional opportunities to help students who are having difficulty meeting the essential academic learning requirements in RCW 28A.630.885.

It is also the intent of the legislature that students who have met or exceeded the essential academic learning requirements be provided with alternative or additional instructional opportunities to help advance their educational experience.

Findings -- 1993 c 336: "(1) The legislature finds that preparing students to make successful transitions from school to work helps promote educational, career, and personal success for all students.

(2) A successful school experience should prepare students to make informed career direction decisions at critical points in their educational progress. Schools that demonstrate the relevancy and practical application of course work will expose students to a broad range of interrelated career and educational opportunities and will expand students' post high school options.

(3) The school-to-work transitions program, under chapter 335, Laws of 1993, is intended to help secondary schools develop model programs for school-to-work transitions. The purposes of the model programs are to provide incentives for selected schools to:

(a) Integrate vocational and academic instruction into a single curriculum;

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

(...) To increase the student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on educational performance of students, that includes high expectations for all students, and that provides for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

(1) Establishing what is expected of students, with standards set at internationally competitive levels;

(2) Parents to be primary partners in the education of their children and to play a significantly greater role in local school decision making;

(3) Students taking more responsibility for their education

4. RCW 28A.310.010

Purpose. (...) establish educational service districts

(1) “Provide cooperative and informational services to local school districts”;

5. RCW 28A.310.250

“Certificated employees subject to the provisions of RCW 28A.310.250, 28.A.405.100, 28 A.405.210, (...) shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular or other leave by school districts, and shall not include retirees hired for postretirement employment (...).

“It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal

constitutional rights of such employee be limited, abridged, or abrogated” as in RCW 28A310.250, 28.A.405.100, 28 A.405.210 (connected to RCW 28 A.405.900).

6. RCW 28A.320.230 (1) (c)

“This committee shall consist of representative member’s of the district’s professional staff, including the representation from the district’s curriculum development committees (...), the committees may include parents at the board discretion (...) parent members shall make up less than one-half of the total membership of the committee.

“Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee’s expenses incidental to visits to observe other districts’ selection procedures may be reimbursed by the school district”

7. RCW 28A.400.030 (3)

Superintendent’s duties:

In addition to such duties as a district school board shall prescribe the school superintendent shall:

(2) Keep such records (...) required by law (...) higher administrative agencies (...)

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. (...) record book of board proceedings for public inspection.

8. RCW 28A.400.300

Hiring and discharging of employees – Written leave policies- Seniority and leave benefits of employees transferring between school districts and other educational employees:

9. CHAPTER 28 A.405 RCWs

are designed to meet the special requirements and needs of public employment education.”

Regulations and Rules, Other Authorities

1. Rule 2.3 (4):

“that all the parties to the litigation have stipulated, that the order involves a controlling question of law as to which there is substantial ground for the difference of opinion and that immediate review of the order may materially advance the ultimate termination of the litigation.”

2. WAC 10-08-001

Declaration of purpose.

(3) Adoption of these 1999 amendments to the model rules does not invalidate any variances in rules adopted by agencies between the effective date of the 1988 amendments to the Administrative Procedure Act and the effective date of these 1999 amendments to the model rules.

(4) In the absence of other rules to the contrary, these model rules shall govern any adjudicative proceedings under the Administrative Procedure Act.

3. Chapter 10-08 WAC

Complete Chapter

4. WAC 10-08-050

Adjudicative proceedings – Assignment of administrative law judge – Motion of prejudice.

(1) Whenever a state agency as defined in RCW 34.12.020 (4)

conducts a hearing which is not presiding over by officials of the agency who are to render the final decision, the agency shall use one of the following methods for requesting assignment of an administrative law judge:

(a) Not less than twenty days prior to the date of the hearing, notify the chief administrative law judge (...) of the date, time, and

School district's ability to terminate a certificated teacher's employment is severely restricted:

“Conviction of serious crimes against children is the sole ground for terminating teacher's employment during the contract year.”

10. RCW 28 A.405.99:

“It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal constitutional rights of such employee be limited, abridged, or abrogated”.

11. RCW 28 A.405.100 (4):

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

12. RCW 28 A.405.120

“School district shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers to have training in evaluation procedures (measures)”

(That is in connection to Bills 6696 and 5973 (the law). must have diversity training related to changing world, no monoculture).

13. RCW 28 A.405.320

“any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or failure to act upon the part of the school board relating to the discharge or other actions adversely affecting his or her contract status, or failure to renew that employee's contract for the next ensuing term,

within thirty days after his or her receipt of such decision or order may serve upon the chair of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth (...) the errors complained of’.

14. RCW 28A.405.340

“Any appeal to the superior court by an employee shall be heard by the superior court without a jury. Such appeal shall be heard expeditiously”.

15. RCW 28 A.405.340:

“constitutional free speech rights (...) additional testimony (...) the court shall hear oral argument and receive written briefs”.

16. RCW 28 A. 645.010:

“Any person, or persons, (...) aggrieved by any decision or order of any school official, or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same (...) filing with the clerk of the superior court the notice of appeal”.

17. RCW 28 A. 645.020

“Within twenty days of service of the notice of appeal, the school board, (...) shall file (...) the evidence and the papers and exhibits relating to the decision for which a complaint has been filed (...).

18. RCW 28 A.645.030

“Any appeal to the superior court shall be heard de novo by the superior court. Such appeal shall be heard expeditiously”.

19. Title 34 RCW
Administrative law
Chapters. And – Notes.

20. Chapter 34.05 RCW Administrative procedure act

Part I. General Provisions

- (b) Provide each student with a choice of multiple, flexible educational pathways based on the student's career interest areas;
 - (c) Emphasize increased vocational and academic guidance and counseling for students;
 - (d) Foster partnerships with local employers and employees to incorporate work sites as part of work-based learning experiences;
 - (e) Encourage collaboration among middle or junior high schools and secondary schools in developing successful transition programs and to encourage articulation agreements between secondary schools and community and technical colleges.
- (4) The legislature further finds that successful implementation of the school-to-work transitions program is an important part of achieving the purposes of chapter 336, Laws of 1993." [1993 c 336 § 601.]

3. RCW 28A250.210

“The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide the students with the opportunity to become respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. (...)”

- (1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;
- (2) Know and apply the core concepts and principles of mathematics, social, physical, and life sciences, civics, and history, including different cultures and participation in representative government, geography, arts; and health and fitness;
- (3) Think anatically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems, and

Part II. Public Access to Agency Rules

Part III. Rule Making Procedures

21. RCW 34.05.050

“Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by this chapter”.

22. RCW 34.05.446

(4) “Discovery orders and protective orders entered under this section may be enforced under the provisions of this chapter on civil enforcement of agency action.”

(5) “Subpoenas issued under this section may be enforced under RCW 34.05.588 (1)”

23. RCW 34.05.530 Standing:

“A person has standing to obtain judicial review of the agency action if that person is aggrieved or adversely affected by the agency action. A person is aggrieved or adversely affected (...)

(1) the agency action has prejudiced or is likely to prejudice this person;

(2) That person’s asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged;

(3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action.

24. RCW 41.59.010 and Chapter 41.59

“It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington and to establish procedures governing the relationship between such employees and their employers which

place of the hearing and request assignment of an administrative law judge to preside over the hearing, or

(b) File with the office of administrative hearings a copy of the Hearing file, which filing shall be deemed to be a request for assignment of an administrative law judge to issue the notice of hearing and preside over the hearing, or

(c) Schedule its hearings to be held at times and places reserved and provided to the agency for that purpose by the office of administrative hearings

(2) Motions of prejudice with supporting affidavits under RCW 34.12.050 must be filed at least three days prior to the hearing or to any earlier stage of the adjudicative proceeding at which the administrative law judge may be required to do the discretionary ruling. If the notice of hearing does not state the name of the presiding administrative law judge, the chief administrative law judge or his or her designee shall make such assignment at least five days prior to the hearing and shall disclose the assignment to any party or the representative making inquiry. Subsequent motions of prejudice filed by the same party in the same proceeding shall be ruled upon by the chief administrative law judge or his designee.

5. WAC 10-08-080

Computation of time:

“In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

6. WAC 10-08-083 Notice of appearances

If a party is represented, the representative should provide the presiding officer and other parties with the representative’s name,

address, and telephone number. The presiding officer may require the representative to file a written notice of appearance or to provide the documentation that an absent party has authorized the representative to appear on the party's behalf.

7. WAC 10-08-090

Adjudicative proceedings — Continuances.

(1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, if the party shows good cause.

(2) A request for a continuance may be oral or written. The party seeking the continuance shall notify all other parties of the request. The request for a continuance shall state whether or not all other parties agree to the continuance. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

8. WAC 10-08-110

Adjudicative proceedings — Filing and service of papers.

(1) Filing.

(a) Papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at any office of the agency. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

(b) The following conditions apply for filing papers with the presiding officer by fax:

(i) As used in this chapter, "fax" means electronic telefacsimile transmission.

(ii) Papers may be filed by fax with the presiding officer. Filing by fax is perfected when a complete legible copy of the papers is reproduced on the presiding officer's fax machine during normal working hours,

excluding weekends and holidays. If a transmission of papers commences after these office hours, the papers shall be deemed filed on the next succeeding business day.

(iii) Any papers filed by fax with the presiding officer should be accompanied by a cover page or other form identifying the party making the transmission, listing the address, telephone, and fax number of the party, identifying the adjudicative proceeding to which the papers relate, and indicating the date of and the total number of pages included in the transmission.

(iv) Papers filed by fax should not exceed fifteen pages in length, exclusive of any cover page.

(v) The party attempting to file the papers by fax bears the risk that the papers will not be timely received or legibly printed, regardless of the cause. If the fax is not received in legible form, it will be considered as if it had never been sent.

(vi) The original of any papers filed by fax should be mailed to the presiding officer within twenty-four hours of the time that the fax was sent. The presiding officer has discretion to require this.

(c) The filing of papers with the presiding officer by electronic mail ("e-mail") is not authorized without the express approval of the presiding officer and under such circumstances as the presiding officer allows.

(2) Service.

(a) All notices, pleadings, and other papers filed with the presiding officer shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

(b) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by fax and same-day mailing of copies; or by commercial parcel delivery company.

(c) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by fax shall be regarded as completed upon production by the fax machine of

confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(3) Proof of service. Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Transmitting a copy thereof by fax, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iii) "Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company."

9. WAC 357-19-025 When must an employee serve a trial period:

"A permanent employee must serve a trial period upon promotional appointment to a position in a class in which an employee has not held permanent status".

10. WAC 357-19-035: When the trial period is not allowed

"Employers are not allowed to require a trial service period when an employee is being reverted to a comparable position with the

same job duties as the position with the same job duties as the position in which the employee last held permanent status”.

11. WAC 308-391-101 Methods to deliver (...).
Time of filing.

(...) records may be (...) for filing at the filing office as follows:

(1) Personal delivery at the filing office’s street address. Delivery is accepted between 8 a.m. and 5 p.m. Monday through Friday except state holidays. The file time for (...) record delivered by this method is when the (...) record is first examined by filing officer for processing, even though the (...) record may yet not have been accepted for filing and subsequently may be rejected.

(2) Courier delivery at the filing office’s street address. Delivery by courier is considered personal delivery (...)

(3) Postal service delivery to the filing office’s mailing address. The file time (...) by this method is (..) the record is first examined by a filing officer for processing, even though the (...) record may not have been accepted for filing and subsequently may be rejected.

(4) Electronic mail and telefacsimile delivery are not accepted.

(5) Electronic filing.

(...) records may be transmitted electronically using XML format prescribed by the filing office. The time of filing (...) by this method is the time the filing office’s information management system determines that all the required elements of the transmission have been received by the required format.

(6) Direct web page data entry

(...) may be delivered by on-line data entry using the filing office’s web site on the internet. The file time for (...) delivered by this method in the time the entry of all required elements (...) in the proper format is acknowledged by the on-line entry system

12. WAC 388-02-0060

relates to answer that the service is complete, response of acceptance or rejection of service, extension time, what missing, acceptance or rejection of filing, extension time, what is missing, the name(s) of persons authorized to accept the communication (correspondence, etc.).

13. WAC 480-07-385 Motion for continuance, postponement or extension of time.

(1) Definitions

(a) “Continuance,” means any postponement or extension of time.

(b) A continuance to which all parties agree is “an agreed” request.

(2) Procedure. Any party may request a continuance by oral or written motion. (...) may require confirmation letter if a party makes an oral request. The presiding officer may rule on such motions orally at the prehearing conference or hearing session, or by letter, notice, or order. (...) if “the continuance will not prejudice any party or a commission.”

The commission will grant a timely request to which all parties expressly agree unless it is inconsistent with the public interest (...).

(3) Timing.

(a) A party must file any written motion for continuance at least five business days prior to the deadline as to which the continuance is requested and must serve the motion by means that ensure its receipt by other parties the next business day after filing.

Parties must file any written response within three business days after the motion is served, or two days prior to the deadline that is sought to be continued, whichever is earlier (...).

(4) The commission will grant continuances only to a specified date.

I. INTRODUCTION

These consolidated cases were filed after the ELL teacher's permanent continuing contract ended on August 31, 2010 and the school board that did not vote as stated (Exhibits A p. 2-4), relinquished the duties to Teaching and Learning (T&L) so internal mobbing took over.

It is in an attempt to manipulate that when teachers' contract is non-renewed it is the teacher opposite to legislative intent as in RCW 28 A. 645.020 is involved in appeal processes – the evidence is the burden of the school district and that evidence ultimately shows that the mobbing and abuse is involved. Moreover, such evidence may also show that in such circumstances a teacher's positioning could lead to a suicide (what G. Prouty told and wrote to teachers' union) but since the teachers' union does not represent teachers, the goal both for the school district and the WEA (Washington Education Association) as in case the teacher dies, there is no case. Cases end with the death of a party (1).

The Superior Court in Kent failed to act according to the legislative intent as in RCW 28 A.645.030 and abused discretion.

In Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007, the accountability was not a subject as the Superior Court in Kent judge thought wrongly conclude

1. Debra Tarpley, ELL Seattle was coming as ELL coach to test teacher's evaluations; Ms. Tarpley told the union and supervisors that "coaching" was inapplicable.

“This decision will only be temporary.” Such pre-judging that a matter is of less importance shows no vision so the order issued with no adequate evidence as stated sets a precedence that insufficient evidence or a belief “temporary” decisions will not affect future. Such behavior in legal profession has unintended (or intended) consequences as accountability is pushed out, funds shift to legal profession from education. As a result, as in documentary movie (Ex. A p. 1) “Waiting for a Superman” public pays.

“First of all, this decision should in no way be construed to find or even suggest that the legislature has not provided for full funding of education in the Federal Way School District.”
(...) “The Plaintiffs have failed to prove beyond the reasonable doubt that they are not amply funded,”

Hon. M. Heavey concluded as the ample funding allowed Tahoma to put continuing teacher on probation, conduct raids where animality and no accountability for the supervisors and Teaching and Learning was a plan.

There is also a reference to Article, IX of the Washington State Constitution:

(...) “ample provision for the education of all children residing within its borders.”

Teaching and Learning in Tahoma knew that ELL students “residing within its borders” were forced to move or drop out of school due to Tahoma’s internal conflicts – the same reason Grazyna Prouty is afraid (and no teacher or student should be) as the environment is not safe.

Having said the above to the Superintendent on June 2, 2009, in November 2009 he signed Rhonda Ham's and Tony Davis' the Athletic Director (1) letter putting the permanent teacher on continuing contract on illegal probation in November 2009 (M. Pachek added as third evaluator).

The "preponderance of evidence" is crucial when the teacher's contract ends. Here, for no reason other than mobbing to alienate Prouty, destroy ELL to class of two students – Special Education mostly, not ELL, withhold trainings, information to conduct annual and other pertinent ELL assessments as abusers withholds food, tools, etc. and as for the teacher with accent, OSPI's CDs made specially for ELL yearly tests sent to T&L.

As to Special Education requirements, it is sufficient to show the discrepancy between actual IQ measure of a student and his/her non-performance. In other words, if the IQ is high and student does not perform, he/she qualifies for Special Education – the ELL guidelines differ (Petitioner's brief). Mike Maryanski (2) put illegally (no reason) G. Prouty on probation after she told him on June 2, 2009 that ELL students move out of district, opposite to every district duties as quoted above.

The case No. 10-2-34635-0 KNT includes the OSPI, The Office of Superintendent of Public Instruction, whether the agencies as OSPI can

1. The two evaluators are the maximum to observe one teacher – as school district can have the second evaluator from outside but no more than two.. Mary Pachek was the third – opposite to legislative intent; mobbing with no ELL knowledge
2. Retired-rehired involved in T&L, as HR in Tahoma – as all HR Directors in Tahoma are previous principals evaluated by T&L – subordinates of T&L.

be “protected” that relates to the Superior’s Court’s disregarding G. Prouty
Petition to give the curricula materials to OSPI as Hon. Roberts could
order to transfer even before consolidation so OSPI (1) responds. If these
agencies are only for bureaucratic purposes versus accountability and
monitoring, and the Superior Court protects them, such inference adds to
the discretion of abuse and allowing as in Ex. A p. 1 “Waiting for the
Superman” that causes the schools to be about adults in the system, not the
students, teachers and parents with no counted input as educators, and as
Glenda .Hall-Davis, App. V. Honeywell, Inc., et al. (C o A Champaign
County, Ohio: C.A. Case No. 2008 CA 1, 2008 CA 2, T.C. No. 2006 CV
220, February 2008, it is abuse of discretion as is merging in “a single
cause” the case No. 10-2-34635-0 KNT that includes teachers’ union and
OSPI connection to if they can be protected should not merge with any.

30. “The court of appeals agreed, adopting the reasoning expressed
in Johnson v. Manhattan Ry. Co. (1933), 289 U.S. 479, 496, that
“consolidation is permitted as a matter of convenience and
economy in administration, but does not merge the suits into a
single cause, or change the rights of the parties, or make those who
are parties in one suit parties in another.”

Tahoma abuse and mobbing is one, and “whether agencies as OSPI
and teachers’ union can be protected another. As RIF (2) is implemented

1. Tahoma counsel had cases that report to OSPI (Shoreline) that is to
monitor school district and the school districts: Tahoma, Federal W – conflict of interests

2. Seniority is the factor for teachers in RIF – reduction in force. But, the
union’s school district’s president is immune: she/he is not considered when seniority is a
factor and in union’s board are predominantly such teachers, Tahoma President – not
advocating for teachers but arranging own immunity; not representing other teachers.

the dismissal of the cases with prejudice in the Superior Court in Kent is the abuse of discretion, not signed by the Chief administrative judge, not heard as in RCW 28 A.405.340 (“written briefs”), parties not sworn, etc.

II. STATEMENT OF THE CASE

As the reply to Respondents’ Response Brief all exhibits in this brief and the Appendix as well as the CP 1- 1159 as all of them are pertinent, this case connects to the teachers’ rights and the tenure that the “educational system” established (Grazyna Prouty taught over ten years) and tenure is explained in the documentary “Waiting for the Superman.”

Relinquishing the School Board’s duties to bullying resulted in ending G. Prouty’s continuing contract. The ELL teacher appealed directly to the Superior Court, therefore Tahoma’s orders “dismissed with prejudice” irrelevant – no hearing, no briefs, no evidence to end the contract. Tahoma talks about “students’ place,” “policies”, and “resources:” there is no ELL policy – not even grading policy, no ELL resources, no ELL curricula, committee. Tahoma counsel talks about the Court’s abuse of discretion. “Waiting for the Superman” links to sabotage the country from within. Tahoma failed to submit evidence, policies, etc. it talks. Also, descriptions in the order of 01/31/2011 as “Prouty emotionally

1. Such abuse is “merging into a single cause” the case No. 10-2-34635-0 KNT that clearly asks whether agencies like teachers’ union, OSPI can be protected when teachers’ contract ends and the accountability is blocked, when Superior Court in Kent duplicates for no reason “dismiss with prejudice” order.

described,” “impassioned argument” relates to Court’s action of blocking evidence, contrary to legislative intent in the process that affects teacher’s contract, opposite to the Rule of Law that the board is not to be protected or the agencies related to education. Accountability and equal rights are the factor. None of the orders contained the appeal rights (1).

Even Grant Wiens (2), Tahoma counsel did not know where Hon. M. Benton’s (3) questioning lead VR 10, and mismanaged the truth as the judicial dissonance interrelates with educational (VR 22), he stated falsely: administrative leave wasn’t until after the decision to non-renew.” (4)

1. None of the orders contain the appeal rights as in Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for the Superintendent of Public Instruction, possibly Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT. The judges failed to determine that Tahoma Board acted in good versus “ill-faith” as connects to pertinent RCWs, acted opposite to legislative intent (Tahoma to file evidence). Hon. M. Benton returned the Petitioner’s Brief corresponding with G. Prouty (no copy for Tahoma) with the envelopes for the judges order; A. Darvas claimed wrongfully as even now there are unused envelopes in judges’ working files that Hon. A. Darvas bailiff could not send the order to Tahoma and Tahoma did not know to file the evidence. The Petitioner’s Verbatim Statement contained details; Hon. Jay White issued damaging the first order.

2. Grant Wiens knows that “non-renewal” is a judicial decision of the School Board. G. Prouty was on a leave before the boards voting stated as March 30, 2010. In fact, the Tahoma School Board did not even vote then (Ex. A p.2-3). His mismanaging the truth is a concern (as teachers behaved) in the context of the authority demanding the answers and when the answers are given to appease, moral dilemma.

3. Hon. M. Benton introduced res judicata, collateral estoppel for no reason, returned G. Prouty’s Brief she filed with two envelopes, (Hon. A. Darvas, Hon. B. Heller, etc.) failed to include the appeals rights in the orders as in Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for the Superintendent of Public Instruction so if those Judges were marked 99.9% “unsatisfactory” on evaluations they had, they wanted to be heard why and how so.

4. In reference to App. Brief and Grant Wiens behavior similar to teachers appealing the authority changing the evidence, reality. Prouty was liked in Tahoma but noticed that after the administrators questioned teachers, they were changing their evaluations of students towards the end of the semester – some changed the grades for the students, e.g. student had an “A” the whole semester and then the grades were lower, this connects to distrust, school dropout, and – demoralization. of staff and students.

III. ARGUMENT AND AUTHORITY

There is zero evidence that Tahoma School Board in Tahoma made a decision to end Grazyna Prouty's continuing contract. Abuse worked. Tahoma never sent the contract to Grazyna Prouty for 2010/2011 to sign and the following year 2011/2012, Board inactive as in RCW28A.405.320 (1) as in VR 8 "no action," continued "failure to act" related to VR 22 as G. Wiens relates to "teachers leaving (...) employment" – no reason for G. Prouty "to leave employment." G. Prouty did not leave employment at any time (1). It is illegal for the teacher to do that during the contract year.

The Board must have a cause since the legislature mandates it to file evidence as in RCW 28 A. 645.020. It is not only in teacher's right but the board's interest (unless it relinquishes responsibility to T&L to bully teachers and institutionalize mobbing. In the (1974) case

Barnard v. Board of Education, 19 Wn. 8, 52P.317 (1898) (In Randy Francisco, Respondent v. Board of Directors of the Bellevue Public Schools, Appellant No. 2026-1, 11 Wn. App.p. 772, (1974),

"Demonstrate that "employment rights of schoolteachers have historically been "within the power of courts to protect," and under that "test," the school board performs a "judicial" function when it orders the discharge of the teacher for cause".

1. Lora Hein (WEA) called G. Prouty's home in November 2009 stating: "You should resign" because the district placed you like on a glass ball so you will slip. Go to B. Zahradnik, your supervisors and say - Can I resign, please let me to resign; I want to resign, etc. She informed me I would be paid till the end of the year.

This union "advice" is detrimental – teacher who resigns does not live up to the contract obligations.

Also, Lora Hein said; "If you do it and in the future you look for a job and there is a question; "Have you ever been on probation?" you will answer: "No."

Matter of Peugnet (Ex. C p.3) decided by Board January 29, 1991 (4):

An alien deportation hearing may not proceed in absentia where the Order to Show cause is sent to the alien's address by regular mail and is not reserved by personal service (...) after the alien fails to appear for the hearing or acknowledge that he has received the Order to Show Cause."

"A hearing in absentia is appropriate where the alien had a notice of his hearing, had an opportunity to attend, and showed no reasonable cause for the failure to appear."

If there was any "cause", the school board does not decide "in absentia."

As the response of Respondents' Response Brief contains no reply to issues raised in Appellant's Brief, not only teacher's rights have not been respected, Tahoma's seeking "pipelines" or "connections" with OSPI, rewards for the teachers' union to hurt diverse teacher(s) amount to corruption: the family members and friends employed (the Haags, the Feists, the Johnsons and R. Ham, the Morrows, the Soldanos, coaches.

The "connections" are also to "legal" as an example the conflict of interest of representation for monitoring agency in school district's (1) monopoly on parents' choices relates to limiting rights of teachers (2).

1. School district contacts "legal" for solving the issues that internally should have been addressed and resolved (the legal benefits from the school funding versus students, teachers) due to a lack of skills in resolving issues, administrators, boards allowed to act in ill-faith by courts to appropriate funds in Shoreline case like in Tahoma.

2. Parents could not choose another evaluator for sibling as Dr. M. Golden evaluated another sibling in Shoreline v Special Education NO. 2001-SE-0021 Ex D p.3, parents requested other options Ex. D p.4, and Ex. D p.5 parents could not choose as in Ex. D p.6 no matter what parents' input was, it did not matter; ties to funding and "rights" limiting parents' rights as limiting G. Prouty, ELL teacher's rights. Shoreline ties to funding as Federal Way (Table of Authorities) the same evaluator for both siblings as "legal" sets precedence for two agencies OSPI and school districts to limit parents' rights.

“Legal” ties are to WAC 10-08-090 as in such proceedings, it is the administrative judge that decides waivers, timing, continuances not the school district (as Tahoma failed to enable G. Prouty to be heard) and that refers to administrative hearing agencies: teacher present (1) and if teacher requests the hearing, the school district must “notify the administrative judge” on hearing Prouty what Tahoma failed to do (act), and such judge if the hearing in an administrative agency decides on “causes” of response.

(1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer (...) or may be granted (...) to parties, if the party shows good cause.

(1) Whenever a state agency as defined in RCW 34.12.020 (4) conducts a hearing which is not presiding over by officials of the agency who is to render the final decision, the agency shall use one of the following methods for requesting assignment of an administrative law judge: “final” decision as above, not the Board

(a) Not less than twenty days prior to the date of the hearing, notify the chief administrative law judge (...) of the date, time, and place of the hearing and request assignment of an administrative law judge to preside over the hearing, or

(b) File with the office of administrative hearings a copy of the Hearing file, which filing shall be deemed to be a request for assignment of an administrative law judge to issue the notice of hearing and preside over the hearing, or

(c) Schedule its hearings to be held at times and places reserved and provided to the agency for that purpose by the office of administrative hearings

Tahoma has done none. “Final” decision as above: not the School Board.

WAC 10-08-050 also addresses motions of prejudice in an agency.

1. Teacher is present if School District Board decision and/or administrative agency decision involves “cause” and judicial decision is to follow as contract non-renewal is (especially for the teacher on continuing contract, not new).

(2) Motions of prejudice with supporting affidavits under RCW 34.12.050 (...) filed (...)

Subsequent motions of prejudice filed by the same party in the same proceeding shall be ruled upon by the chief administrative law judge or his designee.

WAC 10-08-050 relates if a party obtained hearing in such adjudicative proceedings. Tahoma failed all the above, the contract should have been renewed. The Superior Court in Kent prejudiced as G. Prouty appealed directly as in RCW 28 A.405.320. The Court failed as in RCW 28A405.340, RCW 28 A. 645.020, discovery process, RCW28 A.645.030.

Superior Court's in Kent order is invalid, and additionally as Hon. M. Benton was not the designee of the Chief Judge Mary Roberts the issue arises whether the experience of Hon. M. Roberts has had in any capacity any connection to teachers' issues, education, union to further prejudice.

As in Tables of Authorities teachers do have rights for a reason as legislatures saw the complexity and in 41.59 RCW, RCW 41.59.140 the appeals' filing is six months. The contract ended August 31, 2010 and six month is in March 2011 and if there is union animus as in Kuldeep Nagi v. Seattle School District, Decision 5237 (EDUC, 1995) there is no

expiration date. Matter can also be refilled as in Glenda Hall-Davis, App. V. Honeywell, Inc., et al. (C o A Champaign County, Ohio: C.A. Case No. 2008 CA 1, 2008 CA 2, T.C. No. 2006 CV 220, February 2008. (re-filed).

In Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for the OSPI: the Superintendent of Public Instruction Office hearing:

16. “The IDEA also contains dispute resolution process (...). Specifically, it relates to disputes about evaluations, it provides the right of the parent to obtain an independent educational evaluation at public expense. 34 C.F.R. Sec. 300.502 and WAC 392-172-150. The right to an independent educational evaluation at public expense is a specific remedy to address the potential for the disagreement with the district evaluation process, due to bias or other reasons that may result in an inappropriate district evaluation.

Two issues surface – the “dispute resolution process (...)” that was extended, and the credentials of “an independent educational evaluation.” the school districts should have proceeded as G. Prouty requested continually hearing, and it was not Tahoma lawyers that decide on “timing, continuances” or the union “the board will not hear her” agreed with B. Zahradnik but it is the administrative judge that decides so the timing and continuance is granted or not. Therefore, it is the Board that must be aware that the union is not the employer. Of course if WEA represented ELL teacher who paid dues, the teacher would be informed of a continuance, etc. as it is a high possibility that Kathleen Heiman, WEA who only told G. Prouty about “certified letter” as the only way of “service” (teacher would have less than seven days as four weekend days) had a plan with the district to misrepresent as the district and the union did not want open hearing and Carol Banks, former Special Education teacher who was named ELL ‘coach’ to do errands and had no ELL credentials (1)

1. Carol Banks was a former G. Prouty’s supervisor in Panther Lake Elementary in Kent - G. Prouty worked in a State Program - social field, and as elementary school former principal she had to exit the position as teachers took part in hiring administrators

Secondly, as in the Shoreline School District case such evaluator:

19. Turning first to the regulation at issue, WAC 392-172-108, the ALJ notes that the constraints that operate against the school district's discretion in the selection of its evaluators are found in provision (3) and (13)(a)(ii). The first provides that the selected evaluator must be appropriately credentialed, etc.

Mary Pachek, the third evaluator Tahoma chose for two students and ELL teacher was not "appropriately credentialed," the Superior Court in Kent "legal" inference on the educational system is damaging as leads not only to "abuse of discretion," no evidence, administrative records – dismissing cases but sabotaging what the legislature intended in self-interest, and allowing "inappropriately credentialed " retired-rehired, former Federal Way and Tahoma employees to further halt the educational processes and advance the Achievement Gap (Ex. D p. 14) so the retired-rehired connect to their friends for own interest and power of abuse, retired-rehired Federal Way and Renton administrators accredit our schools, and when they reached ELL room with Dawn Wakeley looked as non-existent program as T&L decides it to be that way. Therefore, in Appendix is the further Appellant Response to T&L mobbing as well as the contrast of "corporate responsibility" as 21st century organizations must act responsibly that connects to the Basic Education Act as in RCW 28A.150.210:

"(4) Understand the importance of work and finance and how

performance, effort, and decisions directly affect future career and educational opportunities

To increase student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on the educational performance of students, that includes high expectations for all students, and that provides more flexibility for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

(1) Establishing what is expected of students, with standards set at internationally competitive levels; (...)"

The above case provides the appeal rights, including the petition for reconsideration that is non-existent in the Superior Court in Kent, and Hon. M. Benton as well as judges before rejected "reconsideration."

APPEAL RIGHTS:

"This is a final agency decision subject to a petition for reconsideration filed within ten days of service pursuant to RCW 34.05.470. Such a petition must be filed with (...).

A copy of the petition must be served on each party to the proceeding and the Superintendent of Public Instruction. The filing of the petition for reconsideration is not required before seeking judicial review".

With no accountability and as in Introduction G. Prouty appealed to the Superior Court directly and there was no hearing, Lester "Buzz"

Porter knows even on the basis of case Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for

the Superintendent of Public Instruction, it is not the School District that

withholds from a student or a teacher an opportunity and the right of

hearing; it is the hearing officer that decides on timing and continuances,

not Lester “Buzz” Porte and Tahoma failed to provide the hearing.

The teacher, then has the right to present what happened as rights as in RCW 34.05.050 the teacher never waived the rights.

WEA lawyer T. Firkins had only one conference and he never sent correspondence to G. Prouty (had all the data: phone, address, e-mail, etc.) but to Tahoma when G. Prouty was not working but on a leave – never explained why (possibly because G. Prouty was liked in Tahoma, and teachers would find out as some of them also saw the school district police officer, the deputy (1). As G. Prouty worked for almost ten years on social field, the ELL teacher had not only social field knowledge but relevant trainings, many through Kent School District and Educational Service District and was very aware of the violence, mobbing, and greater violence when Rhonda Ham and Tony Davis were returning from Administration Office. Grazyna Prouty was on a leadership team in Tahoma High School where the principal and the teachers close to T&L boycotted Mike Maryanski’s agenda of cooperation and there were hours G. Prouty spent with “the leaders” as they were to remove (and they did) what M. Maryanski’s input was as it was to be Nancy Skerritt’s input and

1. The teachers saw demoralizing clean-up in secretarial office – no secretaries at the time but the deputy in Tahoma Junior School where Rhonda Ham was Incident Coordinator – the “official” title so if administrators invoke incidents as media provided are in schools (or union), there was a plan for the police officer.

G. Prouty will relate to what our schools become in the Appendix; relates to keeping the Achievement Gap in Washington State and widening it.

T&L; “the leaders” then were to watch teachers who ask questions and alienating them if they were to give input as if they needed “counseling.”

At some point, N. Skerritt invoke a term “co-dependency” (1) so principals and even M. Maryanski was repeating “we must be co-dependent” not knowing what “co-dependency” is – it is unhealthy dependency N. Skerritt aimed. Again, G. Prouty credits the social service experience that allowed her to survive in Tahoma. It is not “educational” setting. “Interdependency” and “co-dependency” are very different.

Nancy Skerritt (2) as in Ex. A p. 8 as the ELL Director and T&L closely monitored who is enrolled as the T&L was forbidding the assessments as State guidelines for the ELL students who enroll in Tahoma out of State but if a possibility of Special Education, T&L micro-managed, and then six people in T&L managed her thousands of messages so she is free to do “the research” as the niche market in Tahoma utilizing time and public funds, withholding training from ELL teacher as Dawn Wakeley monitored when G. Prouty came to ELL announced training but both Dawn Wakeley (T&L) and Nancy Skerritt as abusers withholding

1. Co-dependency is connected to abuse and manipulation; it is creating unhealthy environment that the abuser controls – no matter what the targeted person does, the abuser is never satisfied.

Subordinate and main executor and architect knows human behavior and utilizes abuse techniques as withholding resources, “flooding” to corner others so they agree.

2. “Skerritt” is the spelling – correction: Appellant’s Brief and Tahoma’s Response Brief (as in Ex. A p. 8).

act by withholding the vital knowledge that connects to curriculum as “educational opportunities” from ELL students who were not assessed before they failed WASL – the State of Washington assessment (currently under different name) acted parallel in relation to ELL teacher.

Although WEA has a word “educational” in the name, there is nothing “educational” about the teachers’ union. The Ex. E p. 1. and the case of Kuldeep Nagi v. Seattle School District, Decision 5237 –B (EDU, 1996) connect to it as the union found “a solution” to help administrators by “destruction of evaluations of Nagi:”

“On January 22, 1993, the union filed a grievance on Nagi's behalf, grieving the unsatisfactory performance evaluation.^{1[7]} The union requested the employer to destroy the unsatisfactory evaluation and cooperate with Nagi in efforts to improve the quality of education of his students.

When one reads it, it is clear that manipulation (Ex. F p. 8) and absurdity of the goal.- the abuser under “promises” that could not be fulfilled at that time as if they were to be complied with, Nagi would have had safe working environment. That is why what happened in Tahoma is parallel and it is a few decades old, connects directly to the Achievement Gap. The union represents school district as after Nagi’s evaluations Were destroyed, the evidence was gone. It is a high probability that the

1. Ex. F p. 7 Kathleen Heiman tells Prouty to” send” certified mail but writes “filing.” As a lawyer in Wisconsin (the address as “law office” can be of WEA office)

Superior Court in Kent Judges who worked “on management side” and/or with unions are well aware of the trickery and traps – therefore Tahoma did not have to file “evidence” as in RCW 28 A. 645.020, and it is “the abuse of discretion.”

The dissonance in relation to this case and between doing the “right thing” that was absent in Seattle School District Kuldeep Nagi worked and “accountability” as in Appendix Ex. B p. 1-18 is direct.

Therefore, the quality control and the tools that relate to corporate responsibility as in Appendix Ex. F p. 1-17 if not developed as in Appendix Ex. B p. 1-18 as an example, the price we pay as in Appendix Ex E p. 1 is high, resulting in “crazy-making” environments: Ex. F p. 5-6.

The parallel between destroying evidence and empty promises resulted over the years in entitlement of administrators, inactive school boards, etc. as after the evaluations were destroyed, Nagi through the union agreed to destroying evidence – it is parallel to union errands and the union’s focus on appeal processes – nothing “educational” as a core for education, students, or teachers, only the abuse of power in self-interest and as in Appendix, the definition relate to corruption, and currently the strategy to involve teachers against teachers, often from place like Kennewick or Tahoma , pretty unknown in the State of Washington (it is not Seattle, Tacoma or Kent), and the actions in those

places are to determine the future as Ex. E p. 3-4 union wants to take the role of “counseling teachers out of profession” so Inclusion means absurdity: a teacher versus students learning curricula of other teachers: Tahoma’s (T&L) “Inclusion” curricula Appendix Ex. D p. 18 to cover up “management dirty little secrets” as in Appendix Ex. F p. 1-3 using small, average (Appendix Ex. D p. 20-22) district as unsafe and disruptive conduct will continue as like in Tahoma and Ex. A p. 1 it is about adults.

As Hon. M. Heavey tells in Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT (2007), Hon. M. Heavey worked in (with) legislature; such rulings with no evidence or insufficient, similar to G. Prouty case hurt the public and give a privilege to one party (school board) over another. G. Prouty as ELL teacher should not be in a position to research the judges’ connections – Hon. A. Darvas practice with Heller who is related to who, or whether the University professor mentors a former student, etc., Hon. Bruce Heller “trainings” on Progressive Discipline (bias: training, speakers’ assignments that labeled women in leadership as “bitter” or in Hon. M. Benton’s labeling “emotional,” asking for certification credentials (VR 14-15) in opposition that other party could be “emotional” as well. The fact that Grant Wiens in the setting of authority that questions mismanages the truth (as if Tahoma’s putting Grazyna Prouty’s on leave after non-renewal” VR 22)

shows how court causes emotions and possibly unethical behavior in a race “to win” so Grant Wiens (1) answers what is not true (Ex. F p 9-10).

The parallel connection to “education” may be that when the rights are abrogated and environments become the abuse of power, people do not fulfill their potential as the research and looking through the voting manuals show that many judges run unopposed for their position (as if many people did not want the position) that should be one of honor.

IV. CONCLUSION AND RELIEF

All certificated employees, administrators have the same appeal rights; the Rule of Law is for everybody. When mobbing affects the well-being of both educators and students, “Waiting for the Superman” passed.

As in Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007 and the Appendix exhibits, the Exhibits to this brief and CP 1-1559 as the response to Tahoma who talks

1. Grant’s Wien’s example is that of concern as if he misspoke, he definitely had not clarified it. As G. Prouty looks at students as “somebody’s son or daughter,” here the empathy is imperative. But also the concern like in Stanley’s Milgram’s experiments (hurting others as the authority demanded).

As individuals finish good schools, learn about ethics – lawyers take 45 credits every so often to keep the license – similarly to teachers. Out of those 45 credits every three years 15 credits are to be in ethics. Then, good (or great) alumni are in a work environment that “confuses them.” – in App. Brief – “groupthink.” Grant Wiens was not sure what Hon. M. Benton expected – confused in VR.

Whether individuals know (Ex. p. 8) that we have research on almost everything and Prof. Gloria Beck (in Germany) researched manipulation (links to Ex. F p. 1-3) about dissonance that no individual should be subject to relinquishing the values and beliefs instilled. As the alumni of Harvard through generational self-interest communication (Appendix Ex. D p. 23-24) - Mr. Grant Wiens in VR 22 mismanaged truth in the course of Hon. M. Benton’s questioning and whose order was “under advisement.”

about non-existent “policies,” “place” “contract non-renewal” without evidence, it all amounts to administrators entitlement to use the funds with no accountability and as in Appendix covering the cost of educating four to six students as equalizer to G. Prouty salary shifting the use of the funding for illegal probation to balance the time of meetings versus classroom time to educate. It connects to the past opportunities of a lack of accountability for the funding as in

Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007

(...) “the disparate funding violates the constitutional equal protection rights of (...) teachers, students, and taxpayers.”

According to Superintendents duties as in RCW 28A.400.030 (3) to keep (3) accurate and detailed accounts of all receipts (...) and the Superior Court abuse of discretion, the continuing contract of ELL teacher ended and Tahoma was allowed to use the funds on T&L ad hoc curricula from the funding provided for the school district as in

Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007: “258 different funding level’s for the

(...) school districts. where comparatively as in 2007 the districts pay “an average of \$ 94,436 per administrator,” and although the

3. The State Constitution in Article 1 requires equal protection under the Law: (...) “Disparate treatment of similarly situated individuals have the right to be treated equally under the law”.

the Superior Court in Kent allowed Tahoma not to file evidence, show the policies Tahoma refers to, “discovery” Hon. J. White referred in order as in the Petitioner’s VR Statement, and aimed to lead to circumstances that it is the teacher who will be cornered and further abused as if it was teacher’s burden of proof why the district failed to renew the continuing contract. It is not the teacher’s burden of proof why Tahoma failed to renew the contract, it is Tahoma’s burden as it is Tahoma’s burden to show as in

Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 09-2-21771-8 SEA

That ELL had the curriculum as it does connect to funding, teachers’ evaluation process, and not that of allowing the Tahoma Board and T&L using funds with no accountability as the Board must file evidence if made a decision affecting the teacher’s contract as in RCW 28 A. 645.020 T&L or any certificated employee is not to have a preferential treatment as all can appeal as G. Prouty did as in RCW 28 A. 645.010, RCW 28 A.405.320 , and if it is directly to the Superior Court RCW 28 A.405.340 applies. At the same time, if a teacher asks for the hearings with the board that makes a judicial decisions or an administrative agency, it is the administrative judge as in WAC 10-08-050 and not the school district that determines continuances, causes, etc. so the teacher’s abuse does not

continue by teacher's requests for hearings and the school district Superintendent as Mike Maryanski acts as judge.

Not only (...) "the disparate funding violates the constitutional equal protection rights of (...) teachers, students, and taxpayers." A lack of relating the evidence to this funding, a lack of proof as in

Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 09-2-21771-8 SEA and Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 65036-0-I – March 28, 2011

that the district had the ELL curriculum, had committees RCW 28A.320.230 (1) (c) so no teacher is to be abused as they implement their professional input, teaching standards, etc. and is further abused in the Court because the Court knows that the ranges there 258 different funding level's for the (...) school districts and aims at adding the funding to the legal system versus "students, teachers" so as in

Shoreline School District – Special Education Cause No.2001-SE-0021. Office of Administrative Hearings for the Superintendent of Public Instruction.

a lack of skills of administrators who consider parents choices that a different professionals could evaluate siblings as parents' request (a slogan says" that parents are children's most important teachers) and that district hired Lester "Buzz" Porter for Intervention in the District's Selection Process in OSPI showing that parents do not have a right as in

Tahoma Board's action the ELL teacher has no rights as the same lawyer handles cases connected to OSPI legal (funding) as the school district and "legal" inference over the education aims at widening the Achievement Gap and therefore provide the clients for the Superior Court in Kent and other courts on on-going basis as destroying programs like ELL in CP 1-1159 is sufficient evidence on students' number, so they are forced out of school as ELL teacher was. It was not a choice of "leaving the district" as in VR 22 but to see the evidence as in RCW 28 A. 645.020, court ruling base on evidence why the contract was not renewed, why G. Prouty was denied employment during the contract year, why Tahoma acted in opposition to legislative intent (and the Superior Court in Kent), and to see the plan that Tahoma implements so the teacher is safe upon return as her status is restored to the time before R. Ham and T. Davis were ELL supervisors, that T&L stops withholding trainings, assessments and Tahoma (and the Court respects the Basic Education Act as in RCW 28A.150.210, RCW 28A250.210, and as in Decision # 3142 and Matter of Peugnet A-27538066 In Deportation Proceedings (Decided by the Board January 29, 1991 respect RCW 41.59.140 that pertains to unfair labor practices so that Human Resources Department that has been for years under T&L is independent as acting as the subordinate of T&L as former principals do in Tahoma, employing friends and family members that limits educational and

employment opportunities for diverse teachers with no ties to Tahoma administrators, are not friends or family, etc.

Tahoma Board as an employer is ultimately responsible for the decisions and rewarding teacher union for Kathleen Heiman's ideas of the Board not hearing teachers, using the criteria of appeals' processes as WEA with no teacher present and not knowing what is submitted against the teacher is not a parallel and the example for the school board as the WEA does not make judicial decisions.

The fact that WEA does not represent the teacher is still unacceptable for the School Board to count that it will remain unaccountable because WEA employee, Wisconsin jurisdiction as lawyer aimed at the appeal process versus teacher's representation as the Tahoma School Board is the employer and WEA is not.

Since WEA uses State of Washington funds it is the Court that links the use of such funding and the evidence, etc. and without the protection of WEA and OSPI, the OSPI witnesses can testify in court proceedings.

Since there is no evidence, no hearing given for G. Prouty, and no adjudicative proceedings were set by Tahoma, G. Prouty receives relief and full compensation as in Appellant Brief and past contracts from March 5, 2010 and the continuing contract for the following school year.

For all the foregoing reasons this Court should completely reverse the ruling of the Superior Court so the cases are separate and not one cause, none dismissed and not dismissed with prejudice but the Court of Appeals affirms the teacher's rights and it is ELL teacher that decides to discontinue further appeals upon return to safe workplace.

RESPECTFULLY SUBMITTED this 1st day of November, 2011.


GRAZYNA PROUTY, Appellant

KING COUNTY LIBRARY SYSTEM



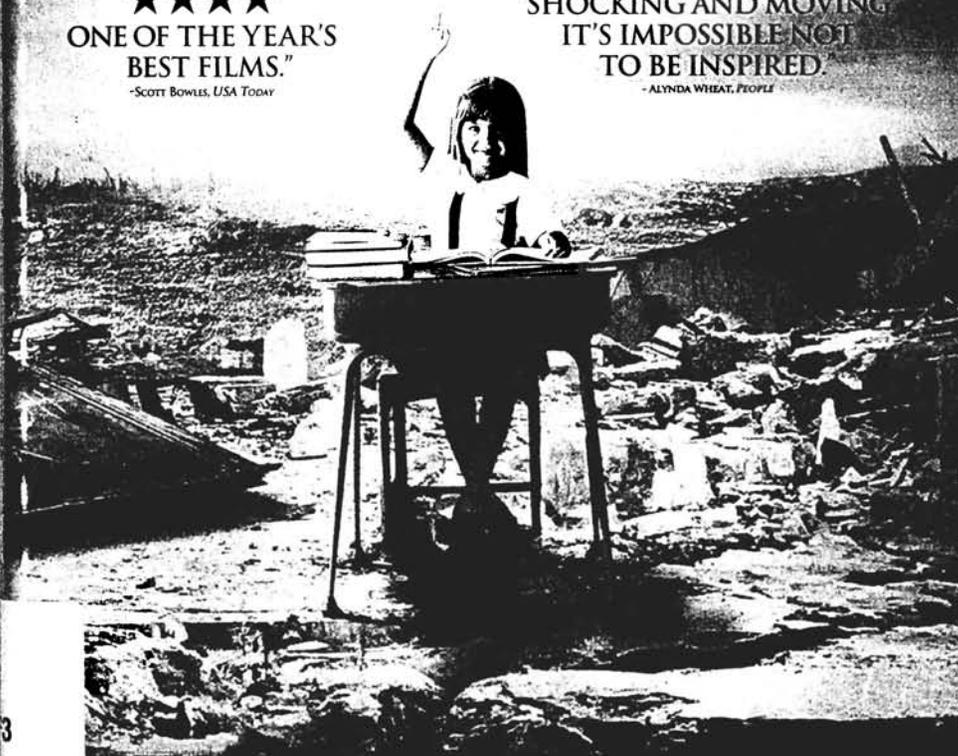
2085565188

THE DIRECTOR OF
CONVENIENT TRUTH

WAITING FOR "SUPERMAN"

★★★★★
"ONE OF THE YEAR'S
BEST FILMS."
-SCOTT BOWLES, USA TODAY

"SHOCKING AND MOVING
IT'S IMPOSSIBLE NOT
TO BE INSPIRED."
-ALYNDA WHEAT, PEOPLE



The fate of our country won't be decided on a battlefield,
it will be determined in a classroom.

EXHIBIT A p.1

Mar 23, 2010 (Tue)

Work Study Session Cancelled

Mar 16, 2010 (Tue)

Work Study Session

Mar 16, 2010 (Tue)

Special Board Meeting

Mar 9, 2010 (Tue)

Regular Board Meeting Revised
Agenda

Mar 4, 2010 (Thu)

Work Study Session

Mar 1, 2010 (Mon)

National Board Certified Teacher
Special Board Meeting

Feb 23, 2010 (Tue)

Regular Board Meeting

Feb 9, 2010 (Tue)

Regular Board Meeting

Feb 8, 2010 (Mon)

Work Study Session

Tahoma Board

No March 30,
2010

Mtg.

EXHIBIT A p. 2

Regular Board Meeting

Jun 8, 2010 (Tue)

Staff Years of Service and Retirement
Celebration Board Meeting

Jun 3, 2010 (Thu)

Work Study Session

May 25, 2010 (Tue)

Regular Board Meeting

May 20, 2010 (Thu)

Work Study Session

May 11, 2010 (Tue)

Regular Board Meeting

Apr 27, 2010 (Tue)

Regular Board Meeting Revised
Agenda

Apr 20, 2010 (Tue)

Work Study Session

Apr 13, 2010 (Tue)

Regular Board Meeting

Mar 23, 2010 (Tue)

Regular Board Meeting

EXHIBIT A p. 3



Central Services Center

25720 Maple Valley-Black Diamond Road S.E. • Maple Valley, WA 98038 • 425.413.3400 • Fax 425.413.3455
Web address: www.tahoma.wednet.edu

March 30, 2010

Ms. Gazyna Prouty
12609 SE 212th Place
Kent, WA 98031

Dear Ms. Prouty:

This is to inform you that at the regular meeting of the Tahoma School Board of Directors on March 30, 2010 the Board voted to not renew your employment contract with the Tahoma School District for the ensuing school year, as I had recommended and informed you in my letter to you on March 5, 2010.

Secondly, in my role as Secretary to the Board of Directors I'm responding to your two letters to Didem Pierson, President, dated March 25, 2010 on her behalf:

- With respect to your request for a hearing with the Board of Directors, please refer to my letter to you dated March 11, 2010. In writing this letter I was responding to your request on behalf of the Board of Directors.
- With respect to your second letter to Ms. Pierson relating to your due process rights under RCW 28A.405.210 and related statutes please refer to my letter to you dated March 16, 2010.

The correspondence which I reference above represents the response to your requests from myself and from the Tahoma school Board of Directors.

Respectfully,



Michael K. Maryanski, Superintendent

Cc: Didem Pierson, President
Tahoma Board of Directors

EXHIBIT A p. 4



Prouty, Grazyna
Secondary Teacher
Special Services

Human Resources Department - 25720 Maple Valley-Black Diamond Rd S.E., Maple Valley, WA 98038

January 16, 2009

To: Tahoma Certificated Staff

From: Bruce Zahradnik, Assistant Superintendent
Brenda Bethards, Human Resource Coordinator/Certificated

Re: Reduction in Force

In December, District staff was informed that a small group of district administrators would begin examining how to reduce spending for the 2009-10 school year, due to anticipated reductions in state funding, limitations on local funding and continued increases in our costs.

We will be facing very difficult decisions about staffing, along with most school districts in the state. It will be necessary to reduce staffing in order to balance the budget. We won't know how many positions may be affected until we have a better idea of the state budget and until we discuss other budget-reduction ideas with our bargaining units and administration. From these discussions budget decisions will be made by our Board of Directors.

Per the Negotiated Agreement between the Tahoma School District and the Tahoma Education Association, we are in the process of identifying a seniority list for retention purposes as stated in Article VII Reduction in Force. Please know that we are meeting regularly with TEA leaders to assure that contract process and protections are carefully followed.

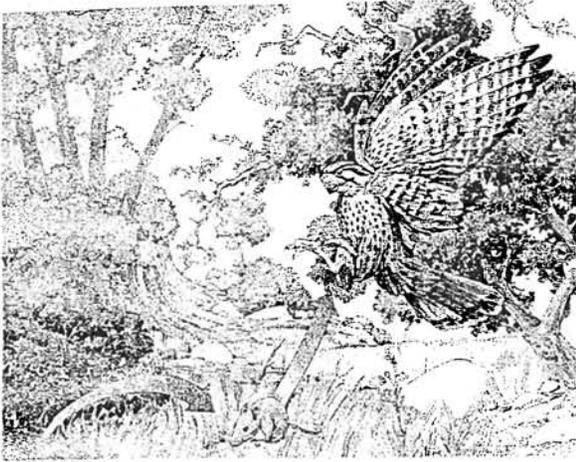
Use the attached form to provide your assignment history. The completed form is due to your building Administrative Assistant by January 30, 2009.

We are making every effort toward preserving the high academic standards that our district currently enjoys while still reducing necessary costs for the 2009/10 school year. We will keep you informed along the way.

Thank you for your cooperation.

EXHIBIT A p. 5

C. Read about a food chain. Look at the drawing.



A Food Chain

The way food moves through an ecosystem is called a food chain. A food chain begins with a producer—a plant, such as grass. A small consumer, such as a mouse, eats the grass. Then a larger consumer, such as a hawk, eats the mouse. Decomposers, such as bacteria, break down the hawk when it dies. Its body becomes part of the soil.

D. Work with a partner. Look at the pictures. In your notebook, number the pictures to make a food chain.



snake

grass

owl

grasshopper

toad

READ

Examine the details in the picture with students. Ask them to identify the setting. What do they see in the background? Name the two animals with students. Ask questions such as, *What is the mouse doing? What is about to happen? Why is the hawk trying to catch the mouse? Look at the hawk's feet. Are they powerful enough to grab the mouse? What will the hawk do with the mouse?*

Write a summary of the picture's message on the board and read it aloud with students:

The plant is food for the mouse. The mouse is food for the hawk.

Read "A Food Chain" with students. Then ask them to dictate a summary of the text for you to write on the board.

USE WHAT YOU KNOW

Check partners' sequence of food-chain events. Then ask how the decomposers may affect each living thing.

With the entire class, work backwards from an animal at the end of a food chain, such as an owl, through to plants and the sun's energy.

WB

Do workbook pages 22 and 23 with students after you finish this page.

GRAMMAR MINILESSON

Pronouns

Explain to students that a *pronoun* is a word that takes the place of a noun. Write the following sentences on the board:

A food chain begins with a producer.

It begins with a producer.

Animals are consumers.

They are consumers.

Kim made a chart of an ecosystem.

He made a chart of an ecosystem.

Discuss which noun in the first sentence is replaced by a pronoun in the second sentence. Have volunteers come to the board and underline each pronoun. Then list the following possessive pronouns on the board: *my, your, our, her*. Help students use them by modeling pairs of sentences:

I have some food.

This is my food.

You have some food.

This is your food.

Mary has some food.

This is her food.

Ana and I have some food.

This is our food.

EXHIBIT A p. 6

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

October 5, 2011

Grant David Wiens
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Lester Porter, Jr.
Dionne & Rorick LLP
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buzz@dionne-rorick.com

Grazyna Prouty ✓
12609 SE 212th Place
Kent, WA. 98031

CASE #: 66908-7-I

Grazyna Prouty, App. vs. Tahoma School Dist. Board, Resp.

Counsel:

The Brief of Respondent was filed on October 3, 2011. Pursuant to RAP 10.2(d) any Reply Brief must be filed by **November 2, 2011**. On that date, whether or not a Reply Brief has been filed, the case will be set for consideration by the Court.

Based on the current inventory of ready cases, this case is projected to be set during the Court's **April term**. You will be informed in writing of the specific time and date.

The Division I Calendar is attached and available online at www.courts.wa.gov.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

EXHIBIT A p. 7

This message does not pose any question; it is a piece of information to follow.

However, her next message will not be over this one (to make sense what she talks about). She takes another message and writes that she did not receive a message from me.

She sent a message on Friday, March 16, 2007 at 4:52.
Another message when she writes she does not have my response is sent at 7:30 a.m. on Monday, March 19, 2007. She indicates she has no response to her message.

-----Original Message-----

From: Amy Doyle
Sent: Friday, March 16, 2007 4:52 PM
To: Bruce Zahradnik; Grazyna Prouty
Cc: Shawn Guthrie; Nancy Skerritt
Subject: RE: TMS and ELL count

• no planning
• Teaching and learning had 7,000 messages telling stories.

Please note that the time suggested by Grazyna is during 6th grade lunch, and all of our ELL students are 6th graders. Additional information is that Jose ~~Osorio~~ appears to have moved back to Colorado (Shawn is following up to make sure that is the case.) Therefore, Jorge should be able to be served at the same time as Jose). I think it would be good for both boys.

Amy Doyle
TMS Principal
425/413-3601

-----Original Message-----

From: Bruce Zahradnik
Sent: Friday, March 16, 2007 4:40 PM
To: Grazyna Prouty
Cc: Amy Doyle; Shawn Guthrie; Nancy Skerritt
Subject: RE: TMS and ELL count

Grazyna,
I don't believe I have a response from you regarding my email on March 13th? Also, is the email below to suggest that you cannot work with these two students at the same time as with the other one student you serve at Tahoma Middle School?
Bruce Z.

-----Original Message-----

From: Grazyna Prouty
Sent: Friday, March 16, 2007 3:55 PM
To: Bruce Zahradnik; Nancy Skerritt; Thomas Potter
Subject: TMS and ELL count

Hello,

N. Skerritt hired him as "expert"

Thomas Potter is aware that two new students have enrolled recently in TMS (Jose ~~Osorio~~ and Jorge ~~Osorio~~). At this time it is a total of three students in TMS (Jose ~~Osorio~~ and Jorge ~~Osorio~~).

EXHIBIT A p. 8

GAO

United States General Accounting Office
Office of Policy

August 1993

**An Audit Quality
Control System:
Essential Elements**

GAO/OP-4.1.6

EXHIBIT B p.1

Preface

Government audits, evaluations, and investigations assess the efficiency, effectiveness, and accountability of government agencies and their programs. These assignments provide information, unbiased analysis, and recommendations that the organization's customers and stakeholders use to make informed decisions.

This guide is intended to reinforce the Government Auditing Standards on quality control; to provide helpful hints for use by federal, state, and local audit organizations in designing or improving their systems; and to ensure consistent quality products that can be relied on by the organizations' customers and stakeholders.

This guide describes the approaches presently being used by GAO. While the General Policies/Procedures Manual and the Communications Manual provide guidance on the various facets of doing our work, this guide pulls together in one place the essential elements of GAO's quality control system.

Today's total quality management environment offers excellent opportunities to reassess and continue to improve the quality control system that helps to provide customers and stakeholders the service to which they are entitled.

Key questions that should be considered in assessing an audit organization's quality control systems effectiveness include the following. Are we:

- Doing the right jobs?
- Doing the jobs right?
- Getting results?
- Achieving consistent quality?

Preface

These questions are pertinent regardless of the audit organization's role, mission, size, or constituency. A good system should also provide the audit organization with performance indicators and feedback from its customers, attesting to the consistency of quality work.



Werner Grosshans
Assistant Comptroller General
for Policy

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Abbreviations

AICPA	American Institute of Certified Public Accountants
CM	Communications Manual
GPPM	General Policies/Procedures Manual
IIA	Institute of Internal Auditors
NALGA	National Association of Local Government Auditors
NSAA	National State Auditors Association
OIGs	Offices of the Inspector General
PCIE	President's Council on Integrity and Efficiency

EXHIBIT B p. 5

Overview

The Need for an Appropriate Quality System

Government Auditing Standards require each organization to have an appropriate quality system in place. The quality assurance system should provide reasonable assurance that the organization (1) is following applicable Government Auditing Standards and (2) has established and is following appropriate policies and procedures.

The Government Auditing Standards quality control standard, the fourth general standard¹, states:

“Audit organizations conducting government audits should have an appropriate quality control system in place and participate in an external quality control review program.”

The Importance of Audit¹ Quality

A high-quality job greatly increases the probability that audit results will be relied on and recommended improvements will be seriously considered and implemented. The organization’s reputation for consistent high-quality work helps ensure that decisionmakers will more readily and more assuredly accept findings and implement recommendations.

Reputations are built over time by producing consistent, high-quality work. A hard-earned reputation is on the line with each product.

To maintain and continue to build excellence requires total commitment on the part of every member of the team and the organization.

Challenges to findings and recommendations can be expected. As an organization increasingly deals with tougher and more sensitive issues, challenges to its work increase.

¹This guide uses the word “audit” to include audits, evaluations, inspections, and investigations. It uses the words “auditor” or “staff” to include the range of skills and disciplines employed in such work.

EXHIBIT B p.6

**Chapter 1
Overview**

It is not unusual for various constituencies to believe that they would be better off if results could be disproved or called into serious question. A successful challenge demonstrating minor errors or inconsistencies may call into question the quality of work supporting the principal finding or recommendation.

Regardless of the reason for the challenge, it can be successfully refuted by demonstrating that findings, conclusions, and recommendations are warranted and supported.

An effective quality control system is the basis for ensuring that the results will meet customers' needs time after time and withstand challenges directed at them.

**Involvement of
Top Management**

The quality control system should be rooted in top management's expectation of and insistence on quality and the principles, policies, and procedures by which it can be achieved and will be evaluated.

For example, the following establishes basic goals and expectations that are a sound basis for GAO's quality planning and performance:

"We seek to achieve honest, efficient management and full accountability in government programs and operations. We serve the public interest by providing policymakers with accurate information, unbiased analysis, and objective recommendations on how best to use public resources in support of the security and well-being of the American people.

"Commitment to quality is the single most important principle governing our work."

The Comptroller General and other top GAO managers participate in the early direction of work to

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**Chapter 1
Overview**

be done and in major decisions at key points in assignment planning and performance.

**Communicating
System Guidance**

The quality control system should define principles, policies, and procedures that will achieve the consistent quality of work that the organization expects.

System guidance should establish what is expected at each phase of an assignment, leaving room for initiative and creativity on how it is done.

It should be readily available to staff at all levels. For example, GAO maintains the General Policies/Procedures Manual (GPPM) and the Communications Manual (CM) to give guidance on achieving audit quality. Each chapter has a succinct policy summary, followed by procedures to be used in complying with the stated policies.

In addition, GAO publishes more detailed guidance on technical subjects. Technical guidance publications are normally referred to as "Gray Books." A list of these appears in appendix I.

GAO's guidance material is accessible either in hard copy or in electronic mode.

**Purpose of This
Guide**

An assignment can go wrong at any stage. It can be ill-conceived, improperly directed, poorly planned, badly implemented, and its results can be ineffectively communicated. For a variety of reasons, it can fail to meet its customers' needs.

An appropriate quality control system identifies or flags those factors that could jeopardize the quality of an audit and establishes processes or procedures that

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**Chapter 1
Overview**

promptly identify and correct problems before they occur. For example, faulty assignment design could be detected during referencing or in a report review stage, but that is far too late to deal effectively with the problem. At that point, little more can be done than to write around the problem, salvaging what is at best a bad situation. To be most effective and to reduce assignment cost, design flaws must be detected in the assignment planning phase or early in the data collection and analysis phase to allow for appropriate intervention and redirection.

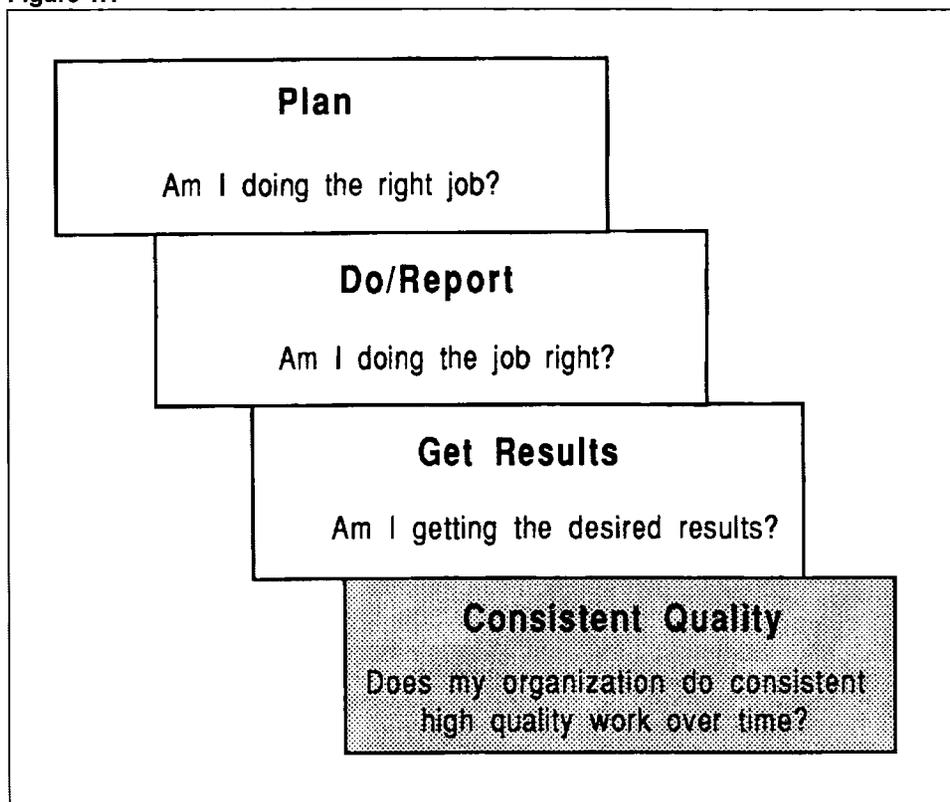
The purpose of this guide is to provide helpful hints for use by federal, state, and local audit organizations in designing their systems to ensure consistent quality products that can be relied on by customers and stakeholders.

It raises key questions that managers and staff should be able to answer at key stages of the assignment.

Key Questions

Figure 1.1 illustrates key questions that an appropriate quality control system should address and the remainder of this guide's chapters attempt to address these key questions.

Figure 1.1



- Selecting those jobs that will make a contribution—doing the right job. Each job requires resources that could have been used on another job. Most audit organizations have “must do” jobs. They also have considerable latitude in using the rest of their resources to seek a balanced portfolio—based on needs, capability, and resources. In exercising that latitude, staff should be able to answer questions such as: Is the job selection a wise one? Does it respond

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Chapter 1
Overview

appropriately to a request or to user needs? Does the job help build staff capability? Are the benefits of the job greater than could have been obtained if other work were done? How do you know? (See ch. 2.)

- Ensuring the quality of each assignment—doing the job right. Doing a job right requires efficient use of resources and high effectiveness. Key questions include the following: Are assignment objectives clear and responsive to customer needs? Is the assignment scoped to meet objectives? Is the methodology appropriate? Is job planning adequate? Are staff motivated and well-supervised? Are assignment results effectively communicated? (See ch. 3.)
- Accomplishing intended results. Audit work is performed for a wide variety of reasons—to accomplish a range of objectives. Most jobs seek results that improve the auditee's operation. The right job done the right way provides the best opportunity to get desired results—the bottom line for the auditor and the audit organization. Were the results of our work used? Did we have a beneficial impact? Did we make the difference our work sought? If staff can answer those questions positively, they are providing the quality service that stakeholders can expect every time. (See ch. 4.)
- Demonstrating consistent quality. Care is taken to build quality into job selection, planning, performance, reporting, and followup. Individual jobs are given a final quality check before they go out the door. But how well have all those policies, procedures, and processes actually worked? Are you satisfied that they were followed, fit together, and accomplished intended results? Can we satisfy peers that the organization's work is of high quality, meeting applicable professional standards? (See ch. 5.)

EXHIBIT B p. 11

Doing the Right Job

Purpose

To do the right job requires planning—long range and day to day.

This chapter gives guidance for developing a planning system that should be in place to help an organization determine what jobs should be done immediately and what jobs should be done in the future. It should show how the mosaic fits together to achieve longer-range objectives.

What Are the Right Jobs?

There is no shortage of good jobs. But with limited resources, each job that is done prevents another from being done. Good jobs should give way to better ones.

Audit organizations must meet many requirements. Decisions must be made on what to do first and over time. Many factors influence those decisions. A good planning system can help ensure good choices.

Key Factors in Planning

While audit organizations share the need to plan, no single planning system likely meets the needs of each. But answering some key questions can help develop quality plans:

- What are the interests and/or needs of the legislative (or other) body that the audit organization reports to? How effective are planning efforts in meeting longer-range legislative requirements and in addressing current issues as they arise?
- How good is the framework within which plans are developed? Does the planning system provide a good basis for making choices within and among programs for which the organization has auditing responsibility?

EXHIBIT B p. 12

Chapter 2
Doing the Right Job

In all but the smallest audit organizations, work focuses on many governmental programs and subprograms and on a range of objectives to make audits better and cost less. Sorting this out within a framework makes cross-comparisons easier and helps to focus what should be done.

- What is the planning horizon? How far does planning reach? A longer-range perspective helps in setting significant audit objectives or issues to be addressed that may be beyond the reach of individual assignments and are attainable only by a series of related jobs.
- Within available resources, how are individual assignments selected to best meet multiyear objectives? Is there a vehicle for integrating “must do” jobs to help meet longer-range objectives?

**A Framework for
Planning**

Responsibilities included in mission statements are broad; planning to meet them requires a sharper focus. Planning works best when it is focused within a framework. Governmental programs or subprograms could provide that focus. Should each program or subprogram be a planning area within which economy, efficiency, effectiveness, accountability, and other objectives are sought? Should the framework encourage cross-cutting issues? Does it permit work that evaluates management and accountability across programs to be arrayed and evaluated in relation to other planning objectives?

The planning framework and areas it comprises could vary. However, the one selected should represent top management’s judgment of how best to address the areas of responsibility.

Chapter 2
Doing the Right Job

Once approved, planning areas will likely be the focus of work for a considerable period. While an approved plan is an achievement, it should not be viewed in concrete; instead, it should change when managers consider it necessary.

Multiyear Plans

A good framework provides planning focus—helping to determine the most productive jobs in a planning area—and getting the most out of “must do” jobs. Planning works best when it covers a period of years in which longer-range objectives can be sought. Individual assignments—with their own current accomplishments—can be planned as building blocks to broader, more significant accomplishments.

The length of a multiyear planning cycle depends on the area that it covers, e.g., when programs are volatile, a shorter planning period is more appropriate. But even when the areas include volatile programs, planning beyond a single year is beneficial. The objectives sought by assignment building blocks need time to develop.

Key Steps

Key steps in multiyear planning include the following:

- Understanding the Area—An Overview. To plan for an area, the planner should know a great deal about it. He or she should be able to answer questions such as:
 - What programs and subprograms does it include? What are their objectives?
 - What are the national goals to which the programs contribute? What is their contribution and how do they relate to those of other program contributors?
 - How are the programs viewed by the legislature, the agency, the public, and other stakeholders?

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Chapter 2
Doing the Right Job

- What are the present and foreseeable issues?
- What are the economic, technological, political, and social trends?
- What is the dollar significance of the programs?
What is the potential for savings?
- What effect do the programs have on people?
- Do potential problems of stewardship or accountability exist?
- Setting Objectives. Analyzing the planning area, along lines suggested by the overview, will likely suggest a large number of worthy objectives—with the potential for significant accomplishments. Although the potential for accomplishment may seem virtually limitless, available resources are not. A good multiyear plan can sort out alternative objectives and prioritize those that offer the greatest benefit given available resources.
- Developing Strategy. How should each objective included in the multiyear plan—culled out from other possible objectives—be approached? What strategy should be employed? Will building blocks be used? What is the role of each? How do they relate to each other? Is there work that must be done? Can mandatory jobs be designed to help meet other planned objectives?

The strategy provides a roadmap for assignment planning. It identifies principal building blocks to achieve longer-range objectives.
- Providing a Basis for Measurement. How will you know when planned objectives are accomplished? Have significant results been identified and will

EXHIBIT B p.15

Chapter 2
Doing the Right Job

	<p>progress be tracked and measured against them? Does the plan clearly establish what will happen when objectives are reached? Are checkpoints built into the process to help correct the course when things are not going as planned?</p>
Cooperative Development	<p>Responsibility for multiyear planning should be clearly defined. Getting the input of all who can make a contribution should also be unequivocal. The needs and interests of the legislature should be appropriately included.</p> <p>Does the plan have all the input needed to ensure that it has an organizationwide perspective? Is it based on a high level of subject matter knowledge and expertise? As appropriate, have legislative staff, agency officials, outside experts, stakeholders, think tanks, and interest groups contributed to the richness, vitality, and usefulness of the plan?</p> <p>Does the plan as developed represent the objective and independently derived judgment of the audit organization? Was that judgment enhanced by a comprehensive knowledge of issues and the factual basis for differing points of view that are seemingly inherent in connection with major national programs?</p>
Top Management Involvement	<p>Approved multiyear plans represent major organizational decisions about resource usage for an extended period. They set basic directions.</p> <p>Top management involvement is essential. This normally includes (1) providing guidance on plan development, (2) setting resource levels for each planning area after considering the needs of all planning areas, (3) reviewing plan proposals and approving them, and (4) evaluating progress and proposed updates.</p>

EXHIBIT B p. 16

Chapter 2
Doing the Right Job

Updating the Plans

Effective plans provide the overall necessary direction for the audit team. However, as time passes, the plans should be reviewed. As part of this assessment, the progress and the overall contribution of the work should be examined. Any significant factors requiring changes to the plans or the overall strategy should be identified. If necessary, resources may be shifted.

Shorter-Term Planning

Individual assignments should logically flow from the multiyear plan and contribute to the mosaic structure. The shorter-term work plan identifies the specific assignments that the unit plans to perform and the resources they plan to use.

Assignments that the organization decides to undertake should constitute a balanced portfolio, including jobs the organization must do, those it selects to meet established multiyear objectives, and those it sees as targets of opportunity. Targets of opportunity are jobs which were not included in the multiyear plan that offer immediate payoff. These assignments represent the organization's judgment on the best use of available resources to meet the various objectives.

In considering jobs, staff should ask questions such as:

- Will the proposed job meet user needs? Does it fit into the organization's priorities? Is it part of a longer-range plan? How does it contribute to the plan's objectives? Why is this job the best choice? What benefits will it achieve?
- Will expected benefits exceed likely costs? At this stage, knowledge about job costs and benefits will probably be limited. But with limited resources

EXHIBIT B p. 17

Chapter 2
Doing the Right Job

available, jobs that are most likely to achieve the greatest benefits should receive priority.

- How sensitive is the job? What is the climate in which its findings and recommendations will be judged? By and large, assignments are performed to meet particular user needs and to obtain results. Some matters, however, are so significant that they must be pursued regardless of unyielding opposition or great sensitivity. That kind of decision should be made before the job is begun.
- Is the job “doable?” A job’s viability should be considered as the job is planned.

If a job is not doable, it may be possible to modify its objectives and still realize significant, worthwhile results. But a job should not be initiated or kept alive with the hope that things will fall into place later.

- Could another organization do the job? If there is a choice, an audit organization should do those jobs for which it is most clearly suited.

In larger audit organizations, work plans can help alert field offices to upcoming work. They help to communicate planned work throughout the organization, encouraging cooperation and avoiding duplication.

**The GAO
Example**

GAO has broad audit, evaluation, and investigative authority covering federal agency operations, activities, and functions and those that are federally assisted. It also has legislatively defined responsibility to perform congressionally requested work. A high percentage of GAO’s work is done in response to specific requests of congressional committees and members.

EXHIBIT B p. 18

The Honorable Julie Spector

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

DA-ZANNE PORTER, MARTHA
MCLAREN, and CLIFFORD MASS,

Plaintiffs,

NO. 09-2-21771-8 SEA

v.

SEATTLE SCHOOL DISTRICT NO. 1,
IN KING COUNTY, STATE OF
WASHINGTON, BOARD OF
DIRECTORS OF SEATTLE SCHOOL
DISTRICT NO. 1, and MARIA
GOODLOE-JOHNSON, Superintendent
and Secretary of the Board,

Defendants.

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

THIS MATTER having come on for hearing, and the Court having considered the pleadings, administrative record, and argument in this matter, the Court hereby enters the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On May 6, 2009, in a 4-3 vote, the Seattle School District Board of Directors chose the Discovering Series as the District's high school basic math materials.

2. In making its decision, the Board considered:

ORIGINAL

King County Superior Court
The Honorable Julie A. Spector
516 Third Ave
Seattle, WA 98104-2381
Telephone: 206/296-9160

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 1

EXHIBIT C p. 1

- 1 a. A recommendation from the District's Selection Committee;
- 2 b. A January, 2009 report from the Washington State Office of Public
- 3 Instruction ranking High School math textbooks, listing a series by the Holt
- 4 Company as number one, and the Discovering Series as number two;
- 5 c. A March 11, 2009, report from the Washington State Board of
- 6 Education finding that the Discovering Series was "mathematically unsound";
- 7
- 8 d. An April 8, 2009 School Board Action Report authored by the
- 9 Superintendent;
- 10 e. The May 6, 2009 recommendation of the OSPI recommending only
- 11 the Holt Series, and not recommending the Discovering Series;
- 12
- 13 f. WASL scores showing an achievement gap between racial groups;
- 14
- 15 g. WASL scores from an experiment with a different inquiry-based
- 16 math text at Cleveland and Garfield High Schools, showing that WASL scores
- 17 overall declined using the inquiry-based math texts, and dropped significantly for
- 18 English Language Learners, including a 0% pass rate at one high school;
- 19
- 20 h. The National Math Achievement Panel (NMAP) Report;
- 21
- 22 i. Citizen comments and expert reports criticizing the effectiveness of
- 23 inquiry-based math and the Discovering Series;
- 24
- 25 j. Parent reports of difficulty teaching their children using the
- 26 Discovering Series and inquiry-based math;
- 27
- 28 k. Other evidence in the Administrative Record;
- l. One Board member also considered the ability of her own child to learn math using the Discovering Series.

1 3. The court finds that the Discovering Series is an inquiry-based math
2 program.

3 4. The court finds, based upon a review of the entire administrative record,
4 that there is insufficient evidence for any reasonable Board member to approve the
5 selection of the Discovering Series.

6 CONCLUSIONS OF LAW

7
8 1. The court has jurisdiction under RCW 28A.645.010 to evaluate the Board's
9 decision for whether it is arbitrary, capricious, or contrary to law;

10 2. The Board's selection of the Discovering Series was arbitrary;

11 3. The Board's selection of the Discovering Series was capricious;

12 4. This court has the authority to remand the Board's decision for further
13 review;

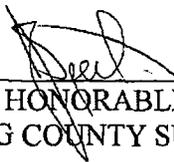
14
15 5. Any Conclusion of Law which is more appropriately characterized as a
16 Finding of Fact is adopted as such, and any Finding of Fact more appropriately
17 characterized as a Conclusion of Law is adopted as such.

18 ORDER

19
20 IT IS HEREBY ORDERED:

21 The decision of the Board to adopt the Discovering Series is remanded for further
22 proceedings consistent with this opinion.

23 Dated this 4th day of February, 2010.

24
25
26 
27 THE HONORABLE JULIE SPECTOR
28 KING COUNTY SUPERIOR COURT JUDGE

ART WANG
Chief Administrative
Law Judge



RECEIVED

JUL 26 2001

July 23, 2001

OFFICE OF ADMINISTRATIVE HEARINGS Superintendent of Public Instruction
Legal Services

One Union Square Suite 1500
600 University Street
Seattle WA 98101



Lise Ellner
Attorney at Law
PO Box 2711
Vashon, WA 98070

parents

Sue Walker, Chief Student Officer
Student Support Services
Shoreline School District
18560 - 1st Ave NE
Shoreline, WA 98155-2148



Lester "Buzz" Porter, Jr.
Attorney at Law
2550 Wells Fargo Center
999 Third Ave
Seattle, WA 98104

In re: Shoreline School District - Special Education Cause No. 2001-SE-0021

Dear Parties:

Enclosed please find the Findings of Fact, Conclusions of Law, and Order in the above-referenced matter. This completes the administrative process regarding this case. Pursuant to 20 USC 1415(e) (Individuals with Disabilities Education Act) or RCW 34.05.510-598 (State Administrative Procedure Act) this matter may be further appealed to either a federal or state court of law.

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

Sincerely,

Mary L. Radcliffe
Administrative Law Judge

c: Legal Services, OSPI
Deputy Chief ALJ, Jan Grant
Mary Radcliffe, OAH/OSPI Coordinator

EXHIBIT D p.1



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

IN THE MATTER OF:

SHORELINE SCHOOL DISTRICT

SPECIAL EDUCATION
CAUSE NO. 2001-SE-0021

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

A hearing in the above-entitled matter was held before Administrative Law Judge Mary L. Radcliffe in Shoreline, Washington, on June 25 and 26, 2001. The interested parents, [REDACTED] and [REDACTED] ("Parents") were represented by Lise Ellner, attorney at law. The Shoreline School District ("District") was represented by Lester "Buzz" Porter, attorney at law. The Administrative Law Judge, having sworn the witnesses, heard testimony, and considered the admitted exhibits and arguments of the parties, hereby enters the following:

STATEMENT OF THE CASE

On March 14, 2001, the District filed a request for due process hearing with the Superintendent of Public Instruction. On March 15, 2001, the Office of Administrative Hearings mailed to the parties a Notice of Prehearing Conference and a Notice of Hearing, with attachments. A prehearing conference was held, as scheduled, on March 22, 2001, and a Prehearing Order entered the same day. The hearing, scheduled for April 4, 2001, was continued to April 12, 2001, so that the Parents could obtain counsel. The forty-five day deadline for issuance of a written decision, originally April 28, 2001, was continued to May 7, 2001. On April 5, 2001, an unscheduled but agreed, prehearing conference was held so that the Parents' new counsel, Lise Ellner, could request a continuance. By Prehearing Order dated April 5, 2001, the hearing was continued to May 30, 2001. The 45 day deadline was continued to June 25, 2001. On May 22, 2001, a Prehearing Order was entered after a prehearing conference, continuing the matter to June 25 and 26, 2001. The 45 day deadline was continued to July 22, 2001. July 22, 2001, a Sunday, moves the deadline to Monday, July 23, 2001, pursuant to computation of time rule, WAC 10-08-080.

The hearing took place as scheduled, beginning on June 25 and concluding on June 26, 2001, including the parties' closing argument and submission of post-hearing briefs.

On July 5, 2001, the Parents submitted a Reply Brief. On July 9, 2001, the District moved to strike the Reply Brief. On July 12, 2001, the ALJ issued a letter granting the District's motion.

Findings of Fact, Conclusions of Law and Order

Page 1

EXHIBIT D p. 2

ISSUES

The parties agree that as part of the District's evaluation the Student should have a psychological evaluation to evaluate his social and emotional state. The District selected Dr. Michael Golden to conduct the evaluation. The Parents object to Dr. Golden because they have concerns about the efficacy of his evaluation of the Student's sibling, and because he testified in the sibling's due process hearing, taking a position contrary to the Parents' position. The Parents are of the view that Dr. Golden cannot conduct a fair and impartial evaluation, that the evaluation would be fruitless, and would cause harm to the Student. The District is of the view that it may select any qualified evaluator to conduct the evaluation and that Dr. Golden is qualified and appropriate to conduct the evaluation.

The issue for hearing is:

Whether the District's request to proceed with the evaluation of the Student by Dr. Michael Golden, over the objection of the Parent, should be granted.

STIPULATIONS

1. The Student needs a psychiatric evaluation as part of his initial evaluation.

FINDINGS OF FACT

1. The Student resides with his family within the boundaries of the District.
2. In September 2000, the Parents referred the Student to the District for evaluation.
3. In October 2000, the Parents removed the Student from the District and enrolled him in a private school in Edmonds, Washington.
4. In November 2000, the District agreed to conduct a special education eligibility evaluation of the Student. Sometime later, the Parents and District agreed that the Student's evaluation would include a social/emotional evaluation by a child psychiatrist.
5. Previously, the District proposed, and the Parents agreed, to have the Student's sibling evaluated by Dr. Golden. That evaluation was completed in the [REDACTED]. The Parents disagree with the efficacy of the evaluation for a variety of reasons.

6. Prior to winter break, about December 22, 2000, the District proposed that Dr. Golden conduct the Student's psychiatric evaluation. The Parents requested other options and were told that Dr. Golden was the only choice.

7. On or about January 21, 2001, the Parents completed and faxed to Dr. Golden a lengthy history form he asked to be completed. In preparation for the appointment, the District mailed the Student's educational records to Dr. Golden. The District did not have a parent- signed consent for release of records. The District is of the view it does not need one. The Parents see this release of records without consent as a violation of their privacy.

8. The Parents did not formally object to Dr. Golden until after a January 24, 2001 meeting. By letters dated January 28, 2001 and January 31, 2001, the Parents, through their educational consultant, withdrew consent for Dr. Golden to conduct the evaluation. They explained that he was not neutral and that there was a conflict of interest based on his evaluation of the Student's sibling. The Parents were not entirely forthright about their lack of trust and confidence in Dr. Golden because they felt they were being put in a position to hurt one child while protecting the other. The District's unwillingness to agree to another evaluator caused the Parents to worry that the District had some ulterior motive behind its decision.

9. The Parents' reasons for not wanting Dr. Golden to conduct the evaluation did not really matter because the District was of the view that it was entitled to select its own evaluator without agreement of the Parents. After receiving the Parents' letters, the District reflected on its choice and came to the same conclusion - that Dr. Golden had the right qualifications, skills, and knowledge about the family that would be valuable to the evaluation. The District notified the Parents that it disagreed with the Parents' position, that the Parents' had not objected earlier, and that if the Parents did not change their view by March 9, 2001, the District would request a due process hearing.

10. When the Parents did not agree to Dr. Golden by March 9, 2001, the last day of the 35 day evaluation period, the District requested a hearing.

11. The Student's [REDACTED] has been the subject of a recent lengthy and contentious special education due process hearing between the Parents and the District. The Parents are seeking reimbursement for a residential placement which the District asserts is unnecessary. Dr. Golden provided expert testimony in the hearing in support of the District's position and contrary to numerous experts' testimony for the Parents.

12. Over the course of the sibling's lengthy due process hearing, the Parents discussed freely with the family (the Student and [REDACTED] sibling) their opinions about Dr. Golden. Namely, that Dr. Golden's evaluation process is not professional, that his evaluation and

resulting opinions are incorrect and inappropriate, and that the family has no faith in his evaluation of the Student's sibling.

13. The Student is also aware of the purpose of this due process hearing, and that his Parents do not want him to be evaluated by Dr. Golden. The Parents report that the Student supports their decision.

14. Dr. Golden is appropriately credentialed and professionally qualified to conduct the evaluation of the Student.

15. The District selected Dr. Golden because he is familiar with the family, which is, by the nature of the evaluation, part of the evaluation.

16. Dr. Bartlett Vincent, a board certified child psychiatrist, who testified on behalf of the Parents, was extremely persuasive. He is well qualified to speak to the issue raised by the Parents. Dr. Golden was not called as a witness by either party in this matter. His willingness to conduct an evaluation and views on this subject are not known.

17. Based on Dr. Vincent's testimony and other evidence, the ALJ finds that:

A) The relationship between a psychiatrist and the person who is the subject of an evaluation requires rapport and trust in order to obtain accurate and candid information. In the absence of trust, the person evaluated may be guarded and not discuss feelings and relationships. The person would fear that the information could come back at them in a negative way. Therefore, the resulting evaluation could have limited utility.

B) A person subjected to an evaluation with someone whom they do not trust could become cynical about the safety of confiding in an evaluator and become uncooperative in future therapeutic relationships.

C) Any benefit Dr. Golden derives from having already developed a family history and insights into the family is outweighed by the adversarial nature of the relationship between the family and Dr. Golden. Any appropriately credentialed child psychiatrist can obtain such information.

D) Given the information provided the Student by ████████ Parents, it is unlikely the Student will establish the trust and rapport with Dr. Golden necessary to be candid and cooperative in the evaluation process, so that, it is unlikely that the outcome of such an evaluation would be useful.

18. Based on Dr. Vincent's and the District's contact with Dr. Golden over the years, there is no reason to doubt his ethics or competency.

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19. Dr. Vincent is of the view that professional ethics should prevent Dr. Golden from accepting the District's request to evaluate the Student, based on the litigation related to the Student's sibling and the Parents' lack of trust and confidence in him, which they have conveyed to the Student. If in the same circumstances as Dr. Golden, Dr. Vincent would not accept the referral. There is no ethical rule on point by which Dr. Golden would be required to refuse the evaluation request.

20. Dr. Vincent is of the view that the Student may be harmed by an evaluation by Dr. Golden. The harm is the potential damage to the Student's understanding of a relationship between a psychiatrist and patient. He opines that the Student could become cynical about such relationships and become uncooperative.

21. Currently, the Student is open, engaging and cooperative.

CONCLUSIONS OF LAW

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

2. The Individuals with Disabilities Education Act (IDEA) (formerly the Education for All Handicapped Children Act) and its implementing regulations provide federal money to assist state and local agencies in educating children with disabilities, and condition such funding upon a state's compliance with extensive goals and procedures. In Hendrick Hudson District Board of Education vs. Rowley, 458 U.S. 176, 102 S. Ct. 3034 (1982), the Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the Act, as follows:

First, had the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the state has complied with the obligations imposed by Congress and the courts can require no more. 103 S. Ct. at 3051.

Parties' Positions

3. The District asserts it has the right to select the evaluator of the Student. It also asserts that the Parents' refusal to cooperate with the District's proposed

evaluator is the same as a refusal to consent to the evaluation. The District relies on WAC 392-172-304 and WAC 392-172-350, as the basis for its request for hearing. The District seeks to establish that it has complied with the regulations regarding initial evaluation and that it has the right to select Dr. Golden, who is qualified and appropriate, to conduct the evaluation.

4. The Parents assert that the District has no right to request a hearing in this matter because the Parents have not refused consent to an evaluation, only to one evaluator. There is no provision in the IDEA for a district to seek a hearing to sustain its choice of an outside evaluator. The Parents assert that one of the fundamental values of the IDEA is collaboration between a parent and district. Therefore, they argue, this matter should be dismissed and the District required to consider other qualified evaluators agreeable to the Parents.

Parents' Motion to Dismiss

5. On the issue of whether the District has a right to seek due process in this matter, the ALJ first looks to the regulation upon which it relies, WAC 392-172-304. It provides, in relevant part:

(1) Informed parental consent must be obtained in writing (using mediation if appropriate), or denial of consent must be overridden by a due process hearing before:

(a) Conducting an initial evaluation, or reevaluation consistent with WAC 392-172-185; . . .¹

6. Here, it is undisputed that the Parents consented to an initial evaluation of the Student and that the District should include a psychiatric evaluation as part of that evaluation. The District asserts, by refusing its proposed evaluator, the Parents have effectively withdrawn their consent, thereby invoking review under the above provision. The Parents assert, by failing to collaborate with the Parents, the District has inappropriately halted the evaluation and it should be required to propose additional evaluators. The ALJ concludes that she must resolve the question of the

¹ WAC 392-172-304 (4) does not apply in this situation. It provides: "A public agency may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter." It has not been argued, nonetheless the ALJ concludes, that section (4) does not apply to this situation because the evaluation is a single "service, benefit, or activity" of the school district.

District's right to select its own evaluator in order to address the Parents' motion to dismiss.

Does the District Have A Right to Select the Outside Evaluator?

7. Under basic principles of statutory construction, the ALJ must begin by applying the appropriate regulation. Only if the statute or regulation is unclear or ambiguous does the ALJ examine the language surrounding the ambiguity or the overall statutory/regulatory scheme to find its intended meaning. *Norfolk & W.Ry. Co. v. American Train Dispatchers' Ass'n*, 499 U.S.117, 128, 111 S.Ct. 1156 (1991) and *Massachusetts v. Morach*, 490 U.S. 107, 115, 109 S.Ct. 1668 (1989).

8. In relevant part, **WAC 392-172-108 Evaluation procedures** provides:

The evaluation or reevaluation of a special education student or any student being considered for special education services shall be performed using the procedures established in this chapter. Each school district or other public agency shall establish and implement evaluation procedures which meet the requirements of this chapter.

- (1) Before the initial provision of special education and any necessary related services, a full and individual initial evaluation of the student's educational needs must be conducted.
- (2)(a) The evaluation of a student with a suspected disability will be conducted by a group of qualified professionals selected by the district or other public agency and knowledgeable about the student and the suspected areas of disabilities.
 - (b) For a student suspected of having a learning disability, the determination of whether the student is eligible under this chapter shall be made by child's parent(s) and a group of qualified professionals which must include:
 - (3) Each professional member of the evaluation group shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules.
- (13)(a) Medical evaluations at the expense of a school district or other public agency shall be obtained if:
 - (i) The group described in WAC 392-172-108(2) suspects a student of having a health problem which may affect his or her eligibility and need for special education and any necessary related services; and

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(ii) In accordance with criteria established by the school district or other public agency.

9. The ALJ finds the reading of this regulation to be unambiguous and clear. Moreover, the ALJ finds that the plain meaning of the regulation is consistent with the section of regulations on evaluation procedures, WAC 392-172-102 through WAC 392-172-111.

10. WAC 392-172-108(2)(a) clearly provides that the school district selects the professionals who will conduct the evaluation. This is not in conflict with the next provision, (2)(b), which pertains to the group who will determine the ultimate question of eligibility, *after* the evaluation activities are completed, for a student suspected of having a learning disability. The provisions are not posed in the alternative. Provision (2)(a) applies regardless of the suspected disability being evaluated.

11. The purpose of provision (2)(b) is to identify the professionals, as well as the parents, who must participate in an eligibility decision related to a suspected learning disability.

12. Provision (2) is a restructuring of the 1995 WAC 392-172-108. The restructuring divided the evaluation into two parts: the conducting of the evaluation and the determination of eligibility for a learning disability. The parents were specifically included in the determination part.² This provision may be redundant given that a new regulation, within the evaluation procedures, defines the parents role in the evaluation process.³ The

² Under the 1995 regulations, WAC 392-172-108(2) provided: "The evaluation of a student ... shall be made by a multi disciplinary team. The multi disciplinary team is a group of professionals selected by the district . . and knowledgeable about the student and the areas(s) of suspected disability(ies)." The MDT did not include the parents.

³ WAC 392-172-111 provides, in relevant part:

(1) Upon completing the administration of tests and other evaluation materials:

(a) Consistent with WAC 392-172-105 [parent participation in meetings] and 392-172-15705 [parent as member of placement team], a group of qualified professionals and the parent of the student shall determine whether the student is a special education student . . .

reference to parents in WAC 392-172-108(2)(b) may have been to avoid any uncertainty as to which portion of the evaluation process a parent was to participate.

13. Such a reading of provision (2)(a) is consistent with provision (13) which relates to a medical evaluation. In the case of a medical evaluation, once the team decides the need for a medication evaluation, the reader is referred back to Section (2) for the process of selecting the medical evaluator.

14. The importance of parent participation and collaboration in the IDEA cannot be overstated. Congress has, on every occasion of the IDEA's Reauthorization, increased the role of the parent. This has been manifested at the state level in our regulations. Therefore, when a provision specifically and clearly leaves a decision to the province of the school district, it cannot be read as unintended. Just as provision (2)(b) includes the parent as a cautionary inclusion, (2)(a) does not include the parents. This is consistent with the role of the parent participation as provided in regulation WAC 392-172-111.

15. It is also consistent with the larger purpose of the IDEA - to obligate school districts receiving federal funds to comply with its obligations to identify, evaluate, and serve, eligible students. 20 U.S.C. Sec.1412(a). Although parents participate in the process they do not become responsible and accountable for the procedural and substantive requirements for child find, appropriate evaluations and/ or, IEPs.

16. The IDEA also contains dispute resolution processes for those inevitable conflicts that arise between a school district and a parent. Specifically, as it relates to disputes about evaluation, it provides for the right of the parent to obtain an independent educational evaluation at public expense. 34 C.F.R. Sec. 300.502 and WAC 392-172-150. The right to an independent educational evaluation at public expense is a specific remedy to address the potential for disagreement with the district's evaluation, due to bias or other reasons that may result in an inappropriate district evaluation. As the court stated in *Andress*: "It would be incongruous under the statute to recognize that the parents have a reciprocal right to an independent evaluation, but the school does not." *Andress v. Cleveland Indép. Sch. Dist.* 64 F.3d 176, 178 (5th Cir. 1995).

17. The ALJ concludes that the District's position is correct, the regulation clearly provides that the District has the discretion to select the evaluator, notwithstanding the obvious efficacy of a collaborative process envisioned in the IDEA. That being said, the ALJ concludes that the Parents halted the evaluation by their refusal to agree to the District's selected evaluator. (See *DuBois v. Connecticut State Bd. of Ed.*, 727 F.2d 44, (2d Cir. 1984), in which the court found the parents' rejection of six proposed evaluators to be a revocation of consent.) The ALJ further concludes that the District's request for hearing to pursue its evaluation over the Parents objection is properly before the ALJ

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pursuant to the provisions of WAC 392-172-350 and -304. The Parents' motion to dismiss is denied.

Intervention in the District's Selection Process

18. Having held that the District is seeking to override the Parents objection to the evaluation, the issue becomes whether the District has complied with the regulations in conducting that portion of the evaluation in dispute and whether, over the Parents objection, the ALJ should allow the District to proceed with its intended evaluation.

19. Turning first to the regulation at issue, WAC 392-172-108, the ALJ notes that constraints that operate against a school district's discretion in the selection of its evaluators are found in provision (3) and (13)(a)(ii). The first provides that the selected evaluator must be appropriately credentialed, etc. Here, the credentials and qualifications of Dr. Golden are not at issue.⁴

20. The second constraint, (13)(a)(ii), provides that if a medical evaluation is obtained it must be in accordance with criteria established by the school district. Generally, such criteria would relate to qualifications and costs, a discussion seen more often in the context of an independent educational evaluation (IEE) regulation. (See WAC 392-172-150(10) related to agency criteria.) Hypothetically, a district might have a policy that includes parents in the selection process. In such an instance, a parent may be able seek to enforce that policy through invocation of WAC 392-172-108(13).⁵ That not being an issue here, the ALJ does not address it further.

Is there a basis for intervening in the District's selection to avoid harm to the Student?

21. There being no other regulation that constrains the District's selection process, the ALJ turns to the Parents' argument that waiting for the completion of the District's evaluation will result in harm to the Student, and that they should be able to intervene to avoid that harm, and not wait to obtain an appropriate evaluation in the form of an IEE.

22. The Parents rely on *Burlington v. Dept. of Ed. of Mass.*, 471 U.S. 359, 105 S.Ct.

⁴ The Parents presented evidence related to the substantive concerns they had about Dr. Golden's evaluation of the Student's sibling. However, they agree that Dr. Golden's qualifications are not at issue here. Moreover, it is not appropriate for the ALJ to render an opinion about the efficacy of an evaluation of a student not before her and pending before another ALJ.

⁵ The ALJ is not rendering any opinion as to whether jurisdiction would exist under the IDEA under such a scenario.

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1996 (1985), which establishes a parent's right to reimbursement for private placement. The Parents also rely on numerous examples in the IDEA requiring collaboration between school districts and parents. However, the Parents cited no authority for the proposition that the District is required to collaborate with the Parents in the selection of its evaluator or that the Parents can intervene in the selection process to avoid potential harm to the Student.

23. On the other hand, the District cited several examples in support of the District's right to conduct its own evaluation on its own terms. None of the cases are exactly on point, but many are much closer to this situation than cases cited by the Parents.

24. It has been consistently held that a district is entitled to conduct its own evaluation. See *Gregory K. v. Longview Sch. Dist.*, 811 F.2d 1307 (9th Cir. 1987). In California, reviewing a regulation with similar language to WAC 392-172-108(2), a hearing officer decided that neither a parent's mistrust nor an evaluator's opinion about a student were a sufficient basis to limit a district's discretion in its selection of an evaluator. *Ventura Unif. Sch. Dist.*, 33 IDELR 80 (SEA CA 2000). In *Andress, id.*, the parents attempted to prevent the district's evaluation of the student in order to prevent harm to the student. The fifth circuit court of appeals reversed the lower court's creation of an exception to the rule that a school district has a right to test a student itself in order to evaluate the student. It held that there was nothing in the statutes, regulations or case law that supports an exception in order to avoid harm to the student. The court in *Andress*, cited *Vander Malle v. Ambach* 673 F.2d 49 (2d Cir. 1983), in support of its decision. In *Vander Malle* the main issue was one of injunctive/stay put relief, however, it did address the district's request to evaluate the student over the objection of the parents. The court held that the district was entitled to have the student examined by a qualified psychiatrist of its choosing. (at pg. 53).

25. Here, the Parents assert that the Student may be harmed by an evaluation by Dr. Golden. The evidence in this case establishes that the Student has already learned that there are evaluators to be trusted and those not to be trusted, and that Dr. Golden is in the latter category. The Student is already armed with his self-protection, which may include being uncooperative with the evaluation. However, the evidence here establishes that Dr. Golden is otherwise appropriately credentialed and qualified to conduct this evaluation. The ALJ is in no position to determine the proposed appropriateness of Dr. Golden's evaluation based on the potential violation of ethical guidelines for child psychiatrists.

26. The Parents also assert that they have no trust in Dr. Golden because he violated their privacy by reviewing records sent to him without a consent for release of information. The ALJ points out that it is the District, not Dr. Golden, who released the records. The ALJ finds the Parents' evidence that the District sent these records to Dr. Golden in May 2001 as opposed to January, 2001. Moreover, it is not an activity attributable to Dr. Golden. Whether it was a violation of law is not determined here. The evidence does not

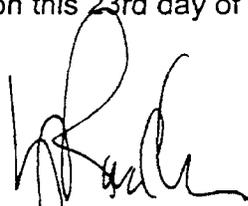
support concluding that meaningful harm might have come from Dr. Golden reviewing records for a student he thought he would be evaluating. The ALJ has no authority over the sibling's due process matter, and makes no finding as to any use the Student's records could have been put to in that matter. Moreover, the ALJ is not deciding whether the Parents have a good reason not to trust Dr. Golden. That may become an issue in a subsequent due process hearing in the event the Parents seek an IEE at public expense, pursuant to WAC 392-172-150. Here, the ALJ concludes that the District has a right to select its evaluator and that there is no basis to alter that right based on the law and evidence as presented.

27. In summary, the ALJ concludes that WAC 392-172-108 is clear and unambiguous: the District is entitled to select its own evaluator, with or without the benefit of the Parents' opinion. It will also have the duty to defend the appropriateness of the resulting evaluation in the event the Parents seek an IEE at public expense.

ORDER

1. The District is entitled to make its own selection of an outside child psychiatrist in order to conduct its initial evaluation of the Student.
2. The Parents' motion to dismiss is denied.

Dated at Seattle, Washington this 23rd day of July, 2001.



Mary L. Radcliffe
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

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

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

Certificate of Mailing

This certifies that a copy of the above Findings of Fact, Conclusions of Law and Order was served upon the parties or their representatives on 7/23/01, by depositing a copy of same in the United States mail, postage prepaid, addressed to the following:



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We're No. 1(1)!

By THOMAS L. FRIEDMAN
Published: September 11, 2010

I want to share a couple of articles I recently came across that, I believe, speak to the core of what ails America today but is too little discussed. The first was in Newsweek under the ironic headline "We're No. 11!" The piece, by Michael Hirsh, went on to say: "Has the United States lost its oomph as a superpower? Even President Obama isn't immune from the gloom. 'Americans won't settle for No. 2!' Obama shouted at one political rally in early August. How about No. 11? That's where the U.S.A. ranks in Newsweek's list of the 100 best countries in the world, not even in the top 10."

RECOMMEND

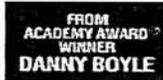
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Fred R. Conrad/The New York Times
Thomas L. Friedman

Go to Columnist Page »

The second piece, which could have been called "Why We're No. 11," was by the Washington Post economics columnist Robert Samuelson. Why, he asked, have we spent so much money on school reform in America and have so little to show for it in terms of scalable solutions that produce better student test scores? Maybe, he answered, it is not just because of bad teachers, weak principals or selfish unions.

"The larger cause of failure is almost unmentionable: shrunken student motivation," wrote Samuelson. "Students, after all, have to do the work. If they aren't motivated, even capable teachers may fail. Motivation comes from many sources: curiosity and ambition; parental expectations; the desire to get into a 'good' college; inspiring or intimidating teachers; peer pressure. The unstated assumption of much school 'reform' is that if

students aren't motivated, it's mainly the fault of schools and teachers." Wrong, he said. "Motivation is weak because more students (of all races and economic classes, let it be added) don't like school, don't work hard and don't do well. In a 2008 survey of public high school teachers, 21 percent judged student absenteeism a serious problem; 29 percent cited 'student apathy.'"

↳ connect to Tahoma Junior discipline sheet

There is a lot to Samuelson's point — and it is a microcosm of a larger problem we have not faced honestly as we have dug out of this recession: We had a values breakdown — a national epidemic of get-rich-quickism and something-for-nothingism. Wall Street may have been dealing the dope, but our lawmakers encouraged it. And far too many of us were happy to buy the dot-com and subprime crack for quick prosperity highs.

Ask yourself: What made our Greatest Generation great? First, the problems they faced were huge, merciless and inescapable: the Depression, Nazism and Soviet Communism. Second, the Greatest Generation's leaders were never afraid to ask Americans to sacrifice. Third, that generation was ready to sacrifice, and pull together, for the good of the country.

motivation and Sp. Ed. versus ELL placement. Sp. Ed one criterion: a discrepancy between IQ and the performance.

EXHIBIT Op. ~~11~~ 15

And fourth, because they were ready to do hard things, they earned global leadership the only way you can, by saying: "Follow me."

Contrast that with the Baby Boomer Generation. Our big problems are unfolding incrementally — the decline in U.S. education, competitiveness and infrastructure, as well as oil addiction and climate change. Our generation's leaders never dare utter the word "sacrifice." All solutions must be painless. Which drug would you like? A stimulus from Democrats or a tax cut from Republicans? A national energy policy? Too hard. For a decade we sent our best minds not to make computer chips in Silicon Valley but to make poker chips on Wall Street, while telling ourselves we could have the American dream — a home — without saving and investing, for nothing down and nothing to pay for two years. Our leadership message to the world (except for our brave soldiers): "After you."

So much of today's debate between the two parties, notes David Rothkopf, a Carnegie Endowment visiting scholar, "is about assigning blame rather than assuming responsibility. It's a contest to see who can give away more at precisely the time they should be *asking* more of the American people."

Rothkopf and I agreed that we would get excited about U.S. politics when our national debate is between Democrats and Republicans who start by acknowledging that we can't cut deficits without both tax increases and spending cuts — and then debate which ones and when — who acknowledge that we can't compete unless we demand more of our students — and then debate longer school days versus school years — who acknowledge that bad parents who don't read to their kids and do indulge them with video games are as responsible for poor test scores as bad teachers — and debate what to do about *that*.

Who will tell the people? China and India have been catching up to America not only via cheap labor and currencies. They are catching us because they now have free markets like we do, education like we do, access to capital and technology like we do, but, most importantly, *values like our Greatest Generation* had. That is, a willingness to postpone gratification, invest for the future, work harder than the next guy and hold their kids to the highest expectations.

In a flat world where everyone has access to everything, values matter more than ever. Right now the Hindus and Confucians have more Protestant ethics than we do, and as long as that is the case we'll be No. 11!

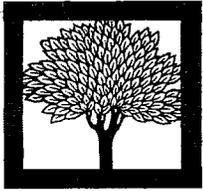
A version of this op-ed appeared in print on September 12, 2010, on page WK11 of the New York edition.

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EXHIBIT D p. ~~15~~ 16



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I request that an attorney be assigned to assess my case. I understand that WEA's Legal Defense Policy controls WEA's payment for legal services and that I can review a copy of such policy by contacting the WEA Office of the General Counsel. I understand that WEA may stop funding my case if the General Counsel decides to do so, or if I choose not to accept a reasonable settlement, or if I fail to cooperate with any assigned WEA attorney, or if I stop paying unified dues. I hereby authorize my assigned attorney to disclose to WEA, its attorneys, its employees, committee members and Board members, any and all information, including confidential information, needed by WEA in WEA's judgment to process this application or administer the legal defense program. I understand that I am required to pay unified membership dues while WEA pays for legal services, unless I become unemployed.

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Information to be completed by WEA UniServ office

Membership Verified? Covered by a collective bargaining agreement Not covered

UniServ Office _____

UniServ Representative _____ Date _____

Mail, fax, or scan to email: PO Box 9100, Federal Way, WA, 98063-9100; 253-946-7232 (fax); JHardie@WashingtonEA.org

Office of the General Counsel
Jim Gasper ▪ Mike Gawley ▪ Eric R. Hansen ▪ Aimee Iverson ▪ Jerry L. Painter

EXHIBIT E p. 1

Subject: contract and deadline Heiman writes in "red"

----- Original Message -----

From: KHeiman@washingtonea.org

To: ~~XXXXXXXXXX~~

Cc: KHeiman@washingtonea.org

Sent: Monday, March 15, 2010 11:30 AM

Subject: contract and deadline

Grazyna,

Regarding your latest email to me of today: I am aware you are on a Continuing Contract.

The District has informed you that they intend to **nonrenew** your contract.

As discussed before, your deadline is today for filing the request for a hearing over the district's plan to nonrenew your continuing contract.

Kathleen Heiman

UniServ Director

WEA-Sammamish UniServ Council

1800 112th Ave NE, Suite 205-E

Bellevue, WA 98004-2937

kheiman@washingtonea.org

Phone (425) 440-6161

Fax (425) 440-6146

OSPI told me that unions
↓
one of "stakeholders"
decide teachers' contracts and
OSPI- Superintendents.

(?)

Who is the
state - OSPI (only)

With new Bills it should
be separate.

Proedyk

3/15/2010

EXHIBIT E p. 2

Teri Staudinger
Kennewick EA
3520 West John Day Avenue
Kennewick, WA 99336

February 18, 2011

Re.: "That's wrong!" – Teri Staudinger letter and testifying in Olympia

Dear Ms. Staudinger,

I would like to receive your response in regards who pays for "the system that (...) puts teachers on probation and require them to develop the improvement plan, etc." (grants – how accessed, how much school district and the union, etc. pay and how accountable they are for the funds).

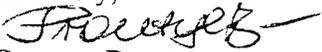
I appreciate to know

- how many teachers you talked to and how you determined as you state that "we currently have a clear and effective system".
- what school districts are involved in developing that system – the names and the number of teachers that were "put on probation" to indicate that the system "has been effective" as stated in the letter.

Thank you for your time.

I am looking forward to receiving your response concerning the costs, sources of funding, and the determination of the quote used in the letter: "Defeat the teacher layoff bill: HB 1609!"

Sincerely,


Grazyna Prouty

ELL teacher, six years Tahoma School District
(over 15-year experience in teaching in diverse environments).

Address:
12609 SE 212th Place
Kent, WA 98031

EXHIBIT E p. 3

Re.: RIF - Reduction
in Force

Grazyna.

Have you heard about the teacher layoff bills in Olympia?

HB 1609 and SB 5399 allow school administrators to terminate teachers instead of transferring them when school staffing needs change, and they link teacher layoffs to our principal evaluations.

Even worse, these bills do nothing to prevent more teacher layoffs and budget cuts. Washington's class sizes are the third-most overcrowded in the entire United States, and schools are laying off teachers and support professionals when enrollment is going up. That's wrong!

Teri Staudinger
Kennewick EA

Incredibly, the Legislature has cut funding and increased class sizes in recent years, despite voters' support for smaller class sizes.

On Tuesday, I'm going to testify against these bills before the House Education Committee in Olympia. I'm going to tell legislators they need to stop overcrowding our classrooms with indiscriminate cuts, and they should stop fooling around with misguided bills like HB 1609 and SB 5399.

I know you probably can't join me in Olympia, but you can send a

2/12/2011

EXHIBIT E p. 4

Home | Contact | WEA main site

Like

Take Action Now!

Info & Resources

Upcoming events!

Defeat the teacher layoff bill: HB 1609!

House Bill 1609 undermines ongoing work to strengthen schools and will result in larger class sizes. Urge the House Education Committee to oppose this misguided bill! The committee will hear the bill Tuesday, Feb. 15. This legislation does nothing to prevent more teacher layoffs and budget cuts, which is the biggest problem our schools face.

School districts and teachers are implementing new evaluation systems that help identify and support the best teachers and weed out the ineffective ones. Let's give it a chance to work before we impose yet another new mandate on local schools. The new research-based evaluation system is a balance of state and local input, it's fair and it's based on what works in the classroom. These efforts are making progress toward developing more rigorous and effective systems for evaluating teachers, and they use student performance data to improve teaching.

We currently have a clear and effective system for helping struggling teachers to either improve or leave the profession. Principals can put teachers on probation and require them to develop improvement plans. Without satisfactory improvement, teachers are counseled out of the profession. The current system provides teachers the right to fair dismissal to ensure the process is fair and not discriminatory.

Children need reasonable class sizes now, and HB 1609 doesn't help. Teachers, support professionals, legislators and parents must work together locally and in Olympia to ensure our children get the best possible education now. They can't wait until the recession ends.

EXHIBIT E p. 5

Gary Hamel's Management 2.0

A look at new ways of managing

DECEMBER 16, 2009, 10:51 AM ET

Management's Dirty Little Secret

Article Comments (63)

Email Printer Friendly Permalink Share facebook Text Size

By Gary Hamel

How would you feel about a physician who killed more patients than he helped? What about a police detective who committed more murders than he solved? Or a teacher whose students were more likely to get dumber than smarter as the school year progressed? And what if you discovered that these perverse outcomes were more the rule than the exception—that they were characteristic of most doctors, policemen and professors? You'd be more than perplexed. You'd be incensed, outraged. You'd demand that something must be done!

Given this, why are we complacent when confronted with data that suggest most managers are more likely to douse the flames of employee enthusiasm than fan them, and are more likely to frustrate extraordinary accomplishment than to foster it?

Consider the recent "Global Workforce Survey" conducted by Towers Perrin, an HR consultancy. In an attempt to measure the extent of employee engagement around the world, the company polled more than 90,000 workers in 18 countries. The survey covered many of the key factors that determine workplace engagement, including: the ability to participate in decision-making, the encouragement given for innovative thinking, the availability of skill-enhancing job assignments and the interest shown by senior executives in employee well-being.

Here's what the researchers discovered: barely one-fifth (21%) of employees are truly engaged in their work, in the sense that they would "go the extra mile" for their employer. Nearly four out of ten (38%) are mostly or entirely disengaged, while the rest are in the tepid middle. There's no way to sugarcoat it—this data represents a stinging indictment of the legacy management practices found in most companies.

So why aren't we scandalized by this data? I talk to thousands of managers each year and for most of them, employee engagement isn't Topic A, or B or even C. How do we account for this heedlessness? There are several possible hypotheses:

- 1. Ignorance:** It may be that managers don't actually realize that most of their employees are emotional zombies—at least while they're at work. Maybe corporate leaders haven't seen the many studies that mirror the results of the Towers Perrin survey. Or maybe their allotment of emotional intelligence is so meager that they are unable to distinguish between enthusiasm and ennui.
- 2. Indifference:** Another explanation: managers know that a lot of employees are flatlining at work, but maybe they simply don't care—either because a callous corporate culture has drained them of empathy, or because they view engagement as financially unimportant—a nice-to-have, but not a business imperative.
- 3. Impotence:** It could be that managers do care, but can't imagine how they could change things for the better. After all, a lot of jobs are just plain boring. Retail clerks, factory workers, call center staff, administrative assistants—of course these folks are disengaged. Given that, the data's hardly surprising. After all, prison wardens aren't surprised that their charges aren't bubbling with *joi d'vivre*, and neither are managers.

Let's evaluate these hypotheses. The first seems to me unlikely. Anybody who has ever read a Dilbert strip knows that cynicism and passivity are endemic in large organizations. Only an ostrich could have missed this.

Inspired Design is Essential — and All Too Rare The Hole in the Soul of Business

About Gary Hamel's Management 2.0 Follow us

Gary Hamel is a management author and consultant. His books include "Leading the Revolution," "Competing for the Future," and "The Future of Management." He's a visiting professor at London Business School and director of the Management Lab.

EXHIBIT Fp.1

The second hypothesis has more to recommend it. I believe there are many managers who have yet to grasp the essential connection between engagement and financial success. Companies that score highly on engagement have better earnings growth and fatter margins than those that do not—a fact borne out by another Towers Perrin study, as well as by the work of Professor Raj Sisodia of Bentley College. This correlation between enjoyment and profitability is likely to strengthen in the years ahead. Let me use the example of the Apple iPhone to explain why.

Think about it: how did Apple manage to jump into the mobile phone business so quickly, despite a complete lack of industry experience? The answer: by accessing a lot of commodity knowledge that was available in the form of standardized components from third party suppliers. While this helps to explain how Apple got into the business so speedily, it doesn't explain why the iPhone has succeeded so spectacularly. Consider this: in the third quarter of 2009, Apple's iPhone division delivered \$1.6 billion in profits, while Nokia earned just \$1.1 billion. What makes these figures eye-popping is that Nokia's global handset market share hovers around 35% while Apple's is less than 3%, this according to TechCrunch.

The lesson here: you don't have to be the biggest to be the most profitable—but you have to be the most highly differentiated. Apple made the iPhone a money machine by injecting it with a lot of *non-commodity* knowledge. When it debuted in June 2007, the iPhone offered users a unique portfolio of functions: a touch screen display, a built-in music player, a capable web browser, and a suite of useful applications that let users check the weather, track their stocks and watch YouTube videos.

The fact that Apple's margins are so much better than Nokia's reflects a simple reality: in making a mobile phone, Apple adds a lot more differentiation to the standard componentry than Nokia does, and Apple adds it in a highly efficient manner. Or to state it another way, among all the various players in the iPhone value chain, Apple has, by far, the highest ratio of differentiation-to-cost, and thus the fattest margins.

In a world of commoditized knowledge, the returns go to the companies who can produce non-standard knowledge. Success here is measured by profit per employee, adjusted for capital intensity. Apple's profit per head is significantly higher than its major competitors, as is the company's ratio of profits to net fixed assets.

It doesn't matter much *where* your company sits in its industry ecosystem, nor how vertically or horizontally integrated it is—what matters is its relative "share of customer value" in the final product or solution, and its cost of producing that value. The greater the share of differentiation, the greater the bargaining power with business partners. Likewise, the lower the cost to produce that value, the bigger the profits.

Of course, Apple isn't immune to the forces of commoditization. Within a few months of its launch, many of the iPhone's original features had been duplicated by its competitors. So Apple had to innovate again. It invited third-party developers to write applications for the iPhone and thereby laid the groundwork for a revolution in portable computing (100,000 apps so far, and still counting). But once again, competitors like Blackberry and Google are in hot pursuit.

So what does all this have to do with engagement? Just this: in a world where customers wake up every morning asking, "what's new, what's different and what's amazing?" success depends on a company's ability to unleash the initiative, imagination and passion of employees at all levels—and this can only happen if all those folks are connected heart and soul with their work, their company and its mission.

Let me break it down:

– In every industry, there are huge swathes of critical knowledge that have been commoditized—and what hasn't yet been commoditized soon will be.

– Given that, we have to wave goodbye to the "knowledge economy" and say hello to the "creative economy."

– What matters today is how fast a company can generate *new* insights and build new knowledge—of the sort that enhances customer value.

– To escape the curse of commoditization, a company has to be a game-changer, and that requires employees who are proactive, inventive and zealous.

– Problem is, you can't command people to be enthusiastic, creative and passionate.

– These critical ingredients for success in the creative economy are *gifts* that people will bring to work each day only if they're truly *engaged*. (Eric Raymond made this point way back in 2001 when he argued that in the new economy, "enjoyment predicts productivity.")

Today, no leader can afford to be indifferent to the challenge of engaging employees in the work of creating the future. Engagement may have been optional in the past, but it's pretty much the whole game today.

how? Curricula
evidence

↓
– cooperation?
– engagement?

EXHIBIT Fp.2

What about the third hypothesis? Sure, (some of you are saying), engagement is important, but let's not kid ourselves—it's easy to see how Apple's super-smart engineers and designers might get excited about creating mind-blowing products, but my company is way more prosaic and a lot of the work around here really is mind-numbing. It's not that I don't care about engagement, but I can't make a silk purse out of a sow's ear. The reason so few of my people are truly engaged in their work is because so few their jobs are truly inspiring. Isn't that what the data are telling us?

Uhhh, no. Surprisingly, 86% of the employees in the Towers Pemin study said they loved or liked their job. So what, then, are the culprits? Julie Gebauer, who heads up the Workforce Effectiveness Practice at Towers Pemin, points to three things that are critical to engagement: first, the scope employees have to learn and advance—are there opportunities for them to grow; second, the company's reputation and its commitment to making a difference in the world—is this a company that deserves the best efforts of its people; and third, the behaviors and values of the organization's leaders—are they people employees respect and want to follow?

These are all management issues. It is managers who empower individuals and create space for them to excel—or not. It is managers who help to articulate a compelling and socially relevant vision and then passionately pursue it—or not. It is managers who demonstrate praiseworthy values—or not. And more often than not, they don't. Here, again, the survey data is disturbing.

Only 38% of employees believe that "senior management [is] sincerely interested in employee wellbeing." Fewer than 4 in 10 agree that "senior management communicates openly and honestly." A scant 40% of employees believe that "senior management communicates [the] reasons for business decisions," while just 44% believe that "senior management tries to be visible and accessible." Perhaps most damning of all, less than half of those polled believe that "senior management's decisions [are] consistent with our values."

My conclusion from all of this: first, engagement is essential to the competitiveness of every company and every economy—and we need to be doing a whole lot better than we are. We've got to get management's dirty little secret out of the HR closet and into the boardroom. And second, if we're going to improve engagement, we have to start by admitting that the real problem isn't irksome, monotonous work, but stony-hearted, spirit-deflating managers.

If you'd like to DO something about this sorry state of affairs, may I recommend you start by picking up two mind-expanding books? The first, "Closing the Engagement Gap," is co-authored by Julie Gebauer and contains a wealth of provocative insights and practical recommendations based in part on the findings of the Global Workforce Survey. The second, "Total Engagement," by Byron Reeves and Leighton Reed, offers a radical prescription for taking the work out work, by making it more like play.

Towers Pemin's study:

- effectiveness

— evidence:
how?

Socially Relevant Vision

contract -
mobbing
- not included
as a way to
work.

EXHIBIT Fp. 3

Comments (5 of 63)

View all Comments »

8:35 am January 26, 2010

Erik Finch wrote:

It is alarming to read that according to Towers Perrin's recent 'Global Workforce Survey' barely one-fifth (21%) of employees are truly engaged in their work in the sense they would 'go the extra mile' for their employer. And it is equally disheartening to hear of employees' predominantly negative views of their senior management teams. According to the data, only 38% of employees believe that "senior management is sincerely interested in employee wellbeing." And fewer than 4 in 10 agree that "senior management communicates openly and honestly."

Gary Hamel is right to be concerned about the complacency with which such data is greeted. Certainly, for employers across all areas of industry, employee engagement is crucial and needs to be treated as a priority. After all, if staff are not fully engaged, this will impact on the results they produce and ultimately even whether they stay with a particular company or not.

If they are to remain loyal and motivated, individuals need to feel their growth aspirations and financial goals are within reach. Without actionable career development plans, dissatisfied staff will look for other opportunities that offer them their desired growth.

Talent Development is the Key

To avoid these scenarios becoming a reality, employers need an effective employee engagement strategy that encompasses all staff, including managers, strengthens morale and ultimately increases productivity and staff retention. By focusing on talent development, companies can overcome the above challenges; engage with the workforce by providing goal management, which gives employees clear objectives to work to, recognise achievement and helps show staff how they are positively affecting the business by aligning their personal and professional targets with those of the organisation as a whole.

There are a broad range of benefits. By aligning employee goals to corporate strategy, businesses ensure that workers have a map in front of them for driving worthwhile business results. At the same time, they give managers the ability to measure performance objectively, provide timely and accurate feedback and keep everyone focused and motivated on the right tasks at the right time.

In addition, by giving employees plans for career development, businesses prove to each individual that recognise their value to the organisation and their potential for future success and development. They also give them the opportunity to expand their competencies and grow their own opportunities.

By rewarding performing employees with appropriate compensation - both monetarily and through incentives such as stock plans, skills training, flexible scheduling options, and even personal expressions of gratitude through feedback - businesses motivate them to stay put and forge ahead.

Finally, by offering managers increased development options as well, they strengthen their leadership abilities while helping them better guide and communicate with their employees. After all, it may be a cliché but it is true nonetheless: strong leaders make a strong team."

Erik Finch, talent development specialist, SumTotal Systems

11:08 am January 19, 2010

Bill Granda, Paradigm Associates wrote:

In our Boy Scout troop, if a Scout asked a leader for help, unless it was an immediate safety issue, the leader replied, "Do I look like you patrol leader." The Scout immediately knew to go solve the problem with his peers. Managers can do the same — pass problems down and solutions up. Allow and expect employees at all level to think, to solve problems. Alone that may not be sufficient to create employee engagement, but it sure is necessary.

4:02 am January 14, 2010

eimer e untal wrote:

Managers manage, they do not engage? MBA's manage, they do not engage? Organizations need students of engagement, not students of management?

9:46 am January 12, 2010

Paul Schmucker wrote:

People generally know what needs to be done and have a vast resource of ideas and methods if engaged, so I agree with the author. However, I disagree with the author who understates the extent of the problem. Management generally sucks the life out of a company. They mis-manage

→ What curricula?
 • evidence
 why G. Prouty's continuing contract ended?
 • effective employee engagement strategy
 None in Tahoma.
 • aligning employee's goals and mission/strategy

EXHIBIT F p.4

NYC will stop paying teachers to sit and wait

EDUCATORS FACING DISCIPLINARY HEARING

'Rubber rooms' to be dismantled

BY KAREN MATTHEWS
The Associated Press

NEW YORK — New York City will end the practice of paying teachers to play Scrabble, read or surf the Internet in reassignment centers nicknamed "rubber rooms" as they await disciplinary hearings, Mayor Michael Bloomberg and the teachers union said Thurs-

day.

The deal will close the centers, where hundreds of educators spend months or years in bureaucratic limbo, costing taxpayers tens of millions of dollars a year.

"It's an absurd abuse of tenure," Bloomberg said.

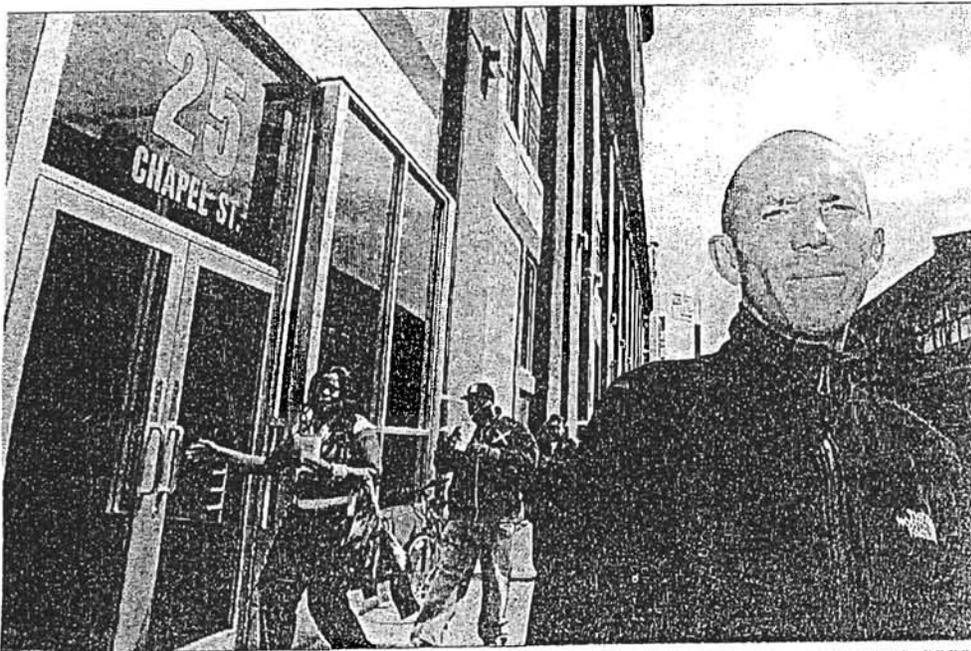
Under the agreement with the United Federation of Teachers (UFT), most of the teachers will be given administrative or nonclassroom work while their cases are pending. Teachers accused of serious charges, including violent felonies, will be suspended without pay.

"We're going to put teachers to work instead of having them sit in rubber rooms while their cases are being resolved," Bloomberg said.

About 650 educators, more than 500 of them teachers, are in the rubber rooms, earning some \$30 million in salaries, officials said.

The nickname refers to the padded cells of asylums. Teachers have said the name is fitting, since some of the inhabitants can become unstable.

continued - next page (2)



KATHY WILLENS / THE ASSOCIATED PRESS

New York City teacher David Suker stands in front of a Brooklyn building that houses a "rubber room," where teachers are assigned while they await disciplinary hearings.

EXHIBIT Fp.5

from
P. i
→

"We're going to put teachers to work instead of having them sit in rubber rooms while their cases are being resolved," Bloomberg said.

About 650 educators, more than 500 of them teachers, are in the rubber rooms, earning some \$30 million in salaries, officials said.

The nickname refers to the padded cells of asylums. Teachers have said the name is fitting, since some of the inhabitants can become unstable.

"There are fights among teachers because some teachers are nuts," said Leonard Brown, a high-school teacher who spent four years in a re-assignment center in Queens. "They put crazy people in with very sane people."

The city has blamed union rules that make it difficult to fire teachers, but some teachers assigned to rubber rooms said they were singled out because they ran afoul of a principal or they blew the whistle on someone fudging test scores.

Past attempts to speed up the disciplinary process have borne few results, but Bloomberg said Thursday's agreement will carry more weight because it includes deadlines for resolving cases.

The Department of Education will have 10 days to file incompetence charges or 60 days to file misconduct charges, depending on the nature of the case. If no charges are filed by the deadline, the teacher will be sent back to the classroom.

"Together, we and the UFT are saying enough is enough," said Schools Chancellor Joel Klein. "No more rubber rooms. They aren't good for anyone."

UFT President Michael

~~UFT President Michael~~

Mulgrew said ending the rubber rooms has been a priority since he took over as head of the union last year. "We want a faster, fairer process," he said.

Teachers who are or have been assigned to rubber rooms said they welcomed the agreement.

"We want to coach those that are not prepared for this profession to move on. However, we also want justice for those who have been accused of wrongdoing," said Orlando Ramos, who spent seven months in a rubber room in 2004-05. "The rubber room has been the wrong answer for so long."

Ramos, now a middle-school principal in San Jose, Calif., was an assistant principal in East Harlem when he was accused of lying at a hearing on whether to suspend a student. Ramos denied the accusation but quit before his case was resolved and moved to California.

David Suker, who is assigned to a rubber room in Brooklyn, said teachers there were waiting to hear details about how the system would be dismantled. "It's just another typical day in terms of powerlessness," Suker said.

But Philip Nobile, who has been in a Brooklyn rubber room for nearly three years, said Thursday's agreement is a step in the right direction.

Instead of going to rubber rooms, most teachers awaiting disciplinary hearings will do administrative work in department offices or nonclassroom work in their schools.

Officials agreed to increase the number of arbitrators who hear teachers' cases from 23 to 39 and said they hope to catch up with backlogged cases by the end of the year.

Are these teachers working in crazy-making environments?

• Skerrit, N. shared she had experience (NY-east coast)

EXHIBIT Fp6

As a faith community of the Archdiocese
you are commissioned to make Christ
present in the world realizing that

"Christ has no body, now, but yours.
No hands, no feet on earth but yours.
Yours are the eyes through which he
looks with compassion on this world.
Yours are the feet with which he
walks to do good.
Yours are the hands with which he
blesses all the world

Yours are the hands,
Yours are the feet,
Yours are the eyes,
You are his body.

Christ has no body, now, but yours.
No hands, no feet on earth but yours.
Yours are the eyes through which he
looks with compassion on this world.
Christ has no body, now, on earth but
YOURS."

JOHN MICHAEL TALBOT

EXHIBIT F p. 7



Podręcznik
manipulacji

zakazana
retoryka

Programowanie umysłów niezawodną ręką manipulacji

OSACZANIE: zniewalanie ludzi podejrzeniami, obawami i błędnymi skojarzeniami

ATRAKCYJNOŚĆ: metody przyciągania tych, na których nam zależy

WŁADZA: sztuka dawania innym tego, czego pragną

Books are translated
(not into English), yet - pictures
are worth a thousand words
© sensus Gloria Beck

EXHIBIT F p.8

No.66908-7-I (Consolidated w/No. 66909-5-1)

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON
One Union Square 600 University Street
Seattle, WA 98101-4170

GRAZYNA PROUTY, Appellant or Petitioner

v.

TAHOMA SCHOOL DISTRICT BOARD, Respondent

APPENDIX
to the PETITIONER'S/APPELLANT'S
RESPONSE BRIEF

Grazyna Prouty, Appellant
ELL (English Language Learners' teacher
Certified and Endorsed in the State of Washington
Professional Continuing Teaching Certificate)
Filing the Response Brief

12609 SE 212th Place
Kent, WA 98031
Phone: 425.413.0421

The following representation in the consolidated cases: No.66908-7-1
(Consolidated w/No. 66909-5-1)

Petitioner:

Grazyna Prouty
12609 SE 212th Place.
Kent, WA 98031
Phone: 425.413.0421
Pro Se

Respondent:

Tahoma School District Board
Didem Pierson
Chairwoman
23126 SE 243rd Place
Maple Valley, WA 98038

Represented by Dionne & Rorick:
Lester "Buzz" Porter WSBA # 23194
Grant Wiens WSBA # 37587

900 Two Union Square
601 Union Street
Seattle, WA 98101
Phone: 206.622.0203

((Tahoma School District)
25720 Maple Valley-Black Diamond Road SE
Maple Valley, WA 98038

No.66908-7-1 (Consolidated w/No. 66909-5-1)

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON
One Union Square 600 University Street
Seattle, WA 98101-4170

APPENDIX
to

THE RESPONSE BRIEF OF PETITIONER/APPELLANT

EXHIBITS LISTED

As the response to the Respondents' Response Brief, from the Exhibit A p. 1-3 to Exhibit G as the answer comprises a

1. Ex. A p. 1- a schedule displayed.

Exhibit A p. 1:

Not only had the Superior Court in Kent failed to hear the cases as in

RCW 28 A.405.340

“constitutional free speech rights (...) additional testimony (...) the court shall hear oral argument and receive written briefs”.

Randy Francisco, Respondent v. Board of Directors of the Bellevue Public Schools, Appellant No. 2026-1, 11 Wn. App. 766 (1974), 525.P2d278. (August 14, 1974)

“de novo” requirement supported by three courts of Appeals. Hattrick v. North Kitsap School District 402, 81 Wn.2d 668, 504 P.2d.302 (1972); Denton v. South Kitsap School District 402, 10 Wn. App. 69, 516 P.2d 1080 (1973); Reagan v. Board of Directors, 4 Wn. App. 279, 480 P. 2d 807 (1971).

Not only Hon. M. Roberts failed to sign the subsequent “dismiss with prejudice” as in: WAC 10-08-050 – motion dismiss with prejudice by Tahoma,

“Subsequent motions of prejudice filed by the same party in the same proceeding shall be ruled upon by the chief administrative law judge or his designee,”

Ex. A p. 1 - The Superior Court in Kent not informing about “Summary Judgment” put it on the schedule, and G. Wiens asked G. Prouty who inquired if he knew about it: “What “Summary Judgment?” Both parties found out about such schedule on January 28, 2010.

It brings to play the illusion in the Superior Court in Kent so “surprises” continue as if the Court was supposed to be a theater with new “surprises” versus the same rights, Rule of Law.

This, in turn allows a circus or a jungle in public schools so “surprises” - aggressive, railroading, ruthlessness are in process as in Tahoma’s curricula – Exhibit A p.6 in the Brief.

Here, the Ex. A p. 6 (from ELL “Building Bridge”, Keystone:) in relation to them as in Ex. A p.6:

“It begins with a producer. A food chain begins with a producer. Animals are consumers. They are consumers. I have some food. This is my food. You have some food.”

The high school students and junior high related to school environment. They were in the USA a number of years; they read:

A food chain begins with a producer (...), a small consumer, such as a mouse, eats the grass (1). Then, the larger consumer eats, such as a hawk, eats the mouse. Decomposers, such as bacteria, break down the hawk when it dies. Its body becomes a part of a soil.”

1. Example: “grass” – something passive that cannot decide. As in Aesop fables dealt with “animals” to invoke a moral.

“Incidents,” “surprises” are opposite to communication as in Ex. C p. 1-2 that shows “the process” to convey the message – Tahoma’s “processes” are on file in the computer files that the Court can access.

As in the Brief Ex. A p. 6: “It begins with a producer” Tahoma Board will show what value chain it “produced.”

In Ex. A p. 6, the exercise shows inactive “grass” that is eaten as it is inactive and in relation to “tools,” “what equipped with,” “size,” “power,” etc. the animals will participate in devouring – up to reaching – the owl – in some cultures the symbol of wisdom, in others (indigenous cultures – termination, death).

Therefore, when a school board ends continuing contract, the evidence is the key and value chain in contrast or parallel to the T&L “local processes.”

2. Exhibit B p. 1:

Exhibit relates to a lack of ELL “placement,” “assessments” that shows the ELL need and related funding (correlation to Brief Ex. Ex. D p. 1-12 that states – Ex. D p. 5 that

Federal Way School District v. State of Washington, No. 06-2-36840-1-KNT, 2nd of November, 2007.

“First of all, this decision should in no way be construed to find or even suggest that the legislature has not provided for full funding of education in the Federal Way School District.”

and that exceeds the funding for regular students – Ex. B p. 2 – \$ 8,730.86 (compared to \$ 8,000 for regular classroom student in 2006), and if students drop off school, the \$ 71,000,000 Washington State spends on ELL raises to \$ 8,976 per one ELL student compared to \$ 9,730.86 as the funds are appropriated and then wasted if students do not learn English (putting them at a table of eight does not solve the problem), fail to graduate, etc. the cost is not solely monetary as above but it is in violence, abuse, limited opportunities, social-emotional effects, health costs, etc.

Therefore, opposite to statements as in Ex. D p. 13 the “local control” if not verified as legislative intent – “cause” – the evidence when “effect” – affects teacher’s contract.

These funding figures are currently higher and the standards will connect to the national Washington State adopts. Therefore, ELL population as in Ex. B p. 1 – 8 is of importance as links to “social” costs.

3. Exhibit C p. 1

Although for a long time, I, Grazyna Prouty have refrained from using religion connotations, I believe that real values matter and a part of those values is in addition to knowledge that allowed me to survive the jealousy, hatred so the abuse of power in self-interest – corruption (1) goes on.

1. The definitions are compiled; the authors give credit to Prof. Larry Beer, Arizona State University – in other words this is connection to G. Prouty experience in these cases. It does connect to accountability and responsibility, basic education principles as in RCW 34.05.050.

But the examples are at hand when Christian faith this country was built on is lived – connects to Ex. F p. 7 that conveys the responsibility to speak the truth and the ones who read it have to make a decision to do so as well as to add to the contrast that is Ex. F p. 8 manipulation – ambiguities, “groupthink”, relative versus normative as German professor included and that connects to abuse of power, acts in ill-faith, Stanley Milgram’s experiments, etc. Although not translated into English, the picture is worth a thousand words and connects to Brief’s Ex. F 1-3, Ex. G p. 1-2 as generation X and Y are a part of it as well that Ex. G p. 3-4 that the ethical behaviors are reflected in justice – evidence, and as legislative intended teachers are a vital profession and positioned the same as all certified employees – administrators, superintendents, etc. as in RCW 28A.310.250, RCW 28 A.405.99, RCW 28 A.405.100 (4), and also in the same appeal rights as in RCW 28 A.405.320, RCW 28 A.405.340, RCW 28 A. 645.010.

4. Exhibit C p. 3: Shows that when “cause” and judicial decision has to be made a person has to be present. If a teacher as ELL teacher did asks the School Board for hearing before it would make a decision that is judicial not to renew the contract, the school board hears the teacher (in Tahoma male Jerry Fernandez was heard by the school board).

5. Exhibit D p. 1-12 – no judge should believe that: the decision is only temporary” and without accountability, sufficient evidence, and the appeal direction: “The losing party (...) will appeal (...) to the Washington State Supreme Court as again- funding with no accountability is parallel to articles as in G p. 3-4 and the generation X, X or Millennium watching and “adapting” as in Ex. G p.2 – the effect is on the public as a whole as these who watch will handle matters in education, finance, justice, health, etc.

5. Exhibit D p. 14: The Achievement Gap

Not because the students in the State of Washington have deficiencies but the adults do. And – as in Brief’s Ex. A p. 1 they want to continue to talk about it as funding and no accountability as legislature intended is in place so “Waiting for the Superman” goes on.

No monitoring of OSPI and accountability as the OSPI and school districts – as in Brief Ex. D p. 1-14 are connected through lawyers to limit first parents’ rights, then – teachers’ rights.

6. Exhibit D p.15 - 16:

One page shows Outcomes and Indicators in 1990. The other – in 2007. It took 17 years to make additions and state what is expected but no evidence – if thinking skills are employed and outcomes and indicators,

this matter would have been long solved and the administrators accountable. Tahoma concentrated on hiring family and retired-rehired so Ex. D p. 14 will have such changes as continually recycled Outcomes and indicators – implemented in some settings (as G. Prouty used them) but not by the Tahoma School Board that does not hear teachers.

7. Exhibit D p. 17 – Tahoma’s “control” is in evidence how Grazyna Prouty did not meet standards – evidence is absent.

8. Exhibit D p. 18:
Inclusion Protocol relates to Ex. D 17, Ex. D 15-16,
This is “the local control” that relates to Appendix Ex. G p. 1-2, Ex. G p. 3-4, Ex. D p. 13, Ex. D p. 19 (parents who can move students to private schools), the Exhibits in App. Response Brief as in Ex. D p. 15-16.

9. Exhibit D p. 19:
Tahoma’s T&L – Dawn Wakeley, Nancy Skerritt blocked the ELL teacher training in ELL annual trainings, curricula input, etc. Actions in contrast as in Ex. D p. 19: where

“examining data that show how students are doing, then building the curriculum based on that work.”
(...)

“developing better leadership skills among principals”

(...) “a core of students whose failure rate (...) masked by the overall success of the system.

10. Exhibit D p. 20 -22

Connects to the district that has a range of referrals and what stands out is that “parent involvement” is almost non-existent in Tahoma Junior School as an example, the same in high school. Current “referrals” higher as cell phones and texting.

11. Exhibit D p. 23- 24

As the generation is “a product of our time” as no accountability but “winning” at all costs with the message that “it is all a game ” versus the Rule of Law, responsibility:

“these are the instinctive reactions from a generation that has been conditioned to see the (...) world as an ongoing game of musical chairs.

12. Exhibit E p. 1 –

Currently – higher – the price the public pays for T&L department and inactive school boards lack of accountability opposite to legislative intent (as inactive – acts in ill-faith).

13. Exhibit E p. 2- 3:

Students can draw circles, technology funds are not necessary for it – no evidence of any of those concepts in relation to ending ELL teacher continuing contract.

14. Exhibit E p. 4-6

As G. Prouty started to ask for questions, the publisher and trainer for the Language! Program added headers in training in the training (February 2011).

15. Exhibit F p. 1-18

“First they ignore you, then they laugh at you, then they fight you, then you win.”

The Courts do not act in vacuum – the decisions affect the public.

Similarly, organizations – therefore businesses started ‘corporate responsibility’ as they understood “good” – “right”- accountability to form “norms” for greater purpose as in the above exhibits it all affects – ethics and not only current but future generations and their decision making.

The decisions that are made today are not “temporary” as in Ex. D p. 5. If the decision is to be made, it must be made according to the Rule of Law, legislative intent as it affects in a long-term the public – many people.

. Exhibit F:

F p.1: public issue life cycle is such that norms if not respected and voluntary create gap(s) (F p.5) that if not looked at low priority or not taken seriously. lead to “norms”.

Both – in social responsibility and lack of it behaviors leave norms

that if not addressed result in such statistics as parallel here that 6 out of 10 students are bullied by other students, and nobody does anything about it – the bully becomes epidemic because certain systems decided they will be "trusting" each other – connection to Exhibit D p. 13 – "We trust local control process we always have."

"Control means the evidence what has been done and what standards are." "Control" is not blocking filing evidence and "assuming."

"Control" is in business or even households (question: "How did we get there?") – quality control, performance control – therefore statements like "local process control" is "allowing bullying" versus the Rule of Law and verifying. Otherwise, it is abuse of power and acting in self-interest - corruption, a not "control."

As in Ex. E p.2-3 as a contrast T&L "uses technology" and "research" drawing circles – needs to show evidence, the administrators' evaluations, etc. – what the Tahoma School Board made a decision upon ending G. Prouty continuing contract.

Statement without verification, the evidence of "local control" is with no merit.

As in contrast, verifying the board work as in the case

Da-Zanne Porter, Martha McClaren, and Clifford Mass, Respondents v. Seattle School District, No. 09-2-21771-8 SEA

where Judge Julie Spector ordered the board to reconsider the matter leads to accountability (e.g. “ELL curriculum adoption committee.”) – that the boards that want to only to be elected in consecutive terms want the opposite to Hon. Judy Spector’s verdict it allows a lack of accountability and “Waiting for the Superman.” (G. Prouty gave to T&L ELL request for ELL materials the Language! Program (Exhibit E p. 4-6)

In contrast, as there are “causes” and “effects” not taken into account (Ex. F p. 6), the actions opposite to legislative intent, accountability, and responsibility – all in public interest.

Therefore, although the system maybe “resistant” at a point of time (Ex. F p. 8), best practices where the behaviors of leaders emulate (Ex. F p. 9) apply as in RCW 28 A.405.100 (4):

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

RCW 28 A.405.99:

“It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal constitutional rights of such employee be limited, abridged, or abrogated”.

so the Rule of Law applies.

As contrast, even private companies with no state, government funding learn that responsibility pays off despite “legislative gap” there (Ex. F p. 11) codes of conduct, designing long-term, collaborative programs (Ex. F p. 12-13); many companies voluntarily lead to progressive (CR) corporate responsibility strategies, and innovation (Ex. F p. 14) as explaining - here in Ex. C p. 1-2 and Ex. F p. 19-23 show “processes”.

In public sector as in regards to school boards, district, the laws are in place, and disrespect – no Rule of Law that is the same for everybody sends a wrong message to other systems and sectors at the time when “in business practice” Ex. F p. 16 organizations strive for “corporate responsibility” that institutionalize higher standards and results in overall higher norms in communities and the society (that often started as voluntary even due to possible “legislative gaps” in those sectors).

16. Exhibit F p.19 – 23

Decision making and administrative matters as in organizations are made by people who bring not only knowledge but other values and beliefs – the alignment is crucial.

Locally, in the State of Washington an example of Starbucks Corporation helps to deter ambiguities, groupthink, etc.

It is the opposite to both school districts' and teachers' union traps and trickery – when the teachers' union board does not allow the teachers to hear others say in the appeal process against them as these members are immune to “reduction in force” as they agreed to do it for themselves – the abuse of power in acting in self-interest and therefore agreed that other teachers are to “counseled from profession: is not the Rule of Law as union writes:

Ex. E p. 5:

“we currently have a clear and effective system for helping struggling teachers to either improve or leave the profession. Principals can put teachers on probation and require them to develop improvement plans. Without satisfactory improvement, teachers are counseled out of profession. The current system provides teachers the right to fair dismissal to ensure the process is fair and not discriminatory,”

The timing, continuance, etc. as in RCW 34.05.530, WAC 308-391-101, WAC 480-07-385 ELL teacher was not told by WEA that accessed fifty percent of State funds for teacher's “probation” about which Lora Hein said: “If anybody asked you if you were on probation, you will answer: “No.”

Not only illegal “probation” but WEA as Tahoma employs family members and friends and State funds allow errands with no purpose.

Similarly, in Tahoma Dawn Wakeley and Nancy Skerritt blocked vital information (the Superintendent Mike Maryanski was later e-mailing

as the secretaries in T&L and ELL staff except G. Prouty was to be in T&L library (at the end Thom Rohm taught French and did not administer annual Washington State but substitute teacher with no training).

The ten rules embrace the notions:

1. Wear one hat.
2. Do it because it is right. Not because it is tight for your resume.
3. The person who sweeps the floor should choose the broom.
4. Care, like you really mean it.
5. The Walls Talk.
6. Be accountable: Only the Truth sounds like the truth.
7. Think like a Person of Action, Act like a Person of Thought.
8. We are Human Beings First.
- 9, 10. Small voice and the dream; otherwise we will be “Waiting

for the Superman.”

17. Exhibit G p. 1-2

Ethical determinant for Generations derive from “Walking the Talk.”

If students see otherwise, they “are simply emulating (...) practices.”

“own narrow ambitions”

“poor choices”

as if it was to “the Superman” to change it.

As in Ex. C p. 1 – 2, even people with doctorate degrees get overwhelmed but if ethics and empathy is alive, people understand, so nobody will end up in court because the publication has to be revised.

The opposite to school board and the Superior Court in Kent that strikes in the letter is a lack of entitlement that aligns with Ex. F 20 –23.

Respectfully submitted: This 1st day of November, 2011

A handwritten signature in black ink, appearing to read "Grazyna Prouty", with a horizontal line extending to the right from the end of the signature.

Appellant: Grazyna Prouty

12609 SE 212th Place,
Kent, WA 98031

BAILIFF – LAURA DORRIS
 CLERK – CRAIG MORRISON
 COURTROOM 3B – DEPT 49
 PHONE – 206-296-9242

BENTON Week of Monday, January 24, 2011

Wednesday 1/26	Thursday 1/27	Friday 1/28
<p>JUDGE ON JURY DUTY</p>	<p>JUDGE ON JURY DUTY</p> <p><i>parties not → informed</i></p>	<p>9:00 AM – Motion to Dismiss PROUTY VS Tahoma School District - Hearing Date for Cause Nos. 10-2-30916-1 KNT & 10-2-34635-0 KNT Det. Atty – Grant Wiens Pet. Pro Se – Grazyna Prouty</p> <p>10:00 AM - 11:00 AM Summary Judgment - Grazyna Prouty vs Tahoma School District 10-2-30916-1 KNT & 10-2-34635-0 KNT Pet. Pro Se – Grazyna Prouty Det. Atty – Grant Wiens</p> <p>11:00 AM - 12:00 PM Summary Judgment WELLS ET AL. VS CITY OF TUKWILA 09-2-38319-7 KNT Def. Atty – Shelley Kerslake & Sarah Springer Atty – Plaintiff Atty – Mark Leen & William Linton</p> <p>1:00 PM - 3:00 PM SENTENCINGS - WOO DPA</p>

EXHIBIT A p. 1

G. Prouty's research shows that demographics and costs concerning ELL is such that ELL students are adequately funded to conduct ELL assessments, ELL teacher's trainings to conduct them (not like Carol Banks, the "coach" organized the copies with cut pages – the sabotage so Grazyna Prouty could not conduct tests (assessments)).

Banks is a former Special Ed. teacher, and worked in that position after dismissed as principal (my former one-year supervisor in Panther Lake Elementary in Kent) where Grazyna Prouty worked for over eight years in social field.

Porter, Lester "Buzz" claims Prouty talks about district "resources".

Tahoma has had no resources whatsoever (pertaining to ELL).

For the clarification for this Court, Prouty does not talk about "ELL place" (Lester "Buzz" Porter distortion but – students' placement as in App. Brief).

Tahoma has Special Education "placement" – not ELL.

Demographics are not decreasing in Tahoma and in the State but due to the ELL teacher mobbing and bullying Teaching and Learning specialized, there were two students in each class and two teachers (G. Prouty and Kathleen Kinney splitting one block of time – called period of 90 minutes and shorter).

EXHIBIT B p. 1

Teaching and Learning contribute to increased drop-outs numbers in the State, in the country.

AmericanFactFinder (2006) reports that in the USA 34,044,945 people speak a language other than English at home.

The Washington State spends extra on ELL: 71,000,000

Student's cost around \$ 8,000

I calculated the Washington State extra expenditures per student, it is \$ 730.86 (71,000,000 divided by the number of all ELL students – 97,021) from the pull of 71, 000,000.dollars. However, in reality the State spent more because not all of these students were continuing the schooling. Therefore, the actual extra cost was over \$ 976.00 that amounts to \$ 8,976 for the ELL student - the total amount spent that was \$ 71,000,000 and divided it by 72,689 – the number of students who did not drop out.

According to Thomas, B. (January 2010) if nothing changes the Washington State will close the opportunity gap for 10th grade Hispanic students reading 7 years (2017) and 46 years for 10th grade math (projected year of closing this gap would be 2056).

In the reports “the achievement gap” is now called the “opportunity or access gap.”

It is crucial to inform and educate that as our forefathers (the first presidents, they had a vision that things could be better.) saw how the things were and how they could be.

Changing the status quo has roots in American history and tradition. Otherwise, in a global picture “our Black and Latino eight grade students will continue to perform at the level of students from the developing countries”. These are research based statements and my experience as the ELL teacher.

The number of people living in the Washington State where a language other than English is spoken rose to 14% in 2000 (from 6.9% in 1980 and 9% in 2000).

In Washington State 6.4 percent of persons age 5 and above live in households where English is spoken less than very well. At the county level, Franklin County has the highest percentage (25.2%) in this category. The population growth in Franklin County is 31.69 percent (1990-2000 Censuscope) and the reported household where Spanish language is spoken is 41.4%.

In 2006 19.7 % of the US population spoke language other than English, including 12.2% Spanish from whom 52.7% spoke English very well and 44.1% less than very well. Other languages were 3.7% Indo-European, Asian 3% and other languages 0.8%.

EXHIBIT B p. 3
RESPONSE BRIEF OF PETITIONER/APPELLANT

Linguistically, it involves 10.71% of Hispanics in the USA who speak English well and very well (age 5 and over), 47.91 % (8,309, 995 in 1990) less than very well and that number increased to 48.94 % in 2000 (13,751,256). The Asian group decreased from 54.13 % to 51.58% and language spoken at home that was 1.94 % in 1990 increased to 2.65%. The Hispanics increased from 7.5% in 1990 to 10.71% in 2000.

For comparison, English only decreased: 86.18% in 1990 when the population was 198,600,798 and 82.11% in 2000 (population of 215,423,557) includes a decrease to 80% of those who are 5 and older (the school-age population).

Echevarria, J (2008) states that 90 percent of recent immigrants come from non-English-speaking countries. From 1989-1990 school year through 2004-2005, the number of identified students with limited English proficiency in public schools increased 138 percent. The enrollment, however, increased only by 21 percent (National Clearinghouse for English Language Acquisition, 2006) and it translated in 2004-2005 to about five million of the school age children who were identified LEP (limited English proficient).

Therefore, the two aspects of number of ELL students and immigrant population from non-English speaking countries increased. The

history of the demand for ELL assistance has been confirmed by the dropout rates, especially among the Hispanic students.

The latest statistics show that many students do not continue the schooling. According to McCold, P. and Malagon, H. (December 2009) “a total of 97,021 ELL enrollments were served statewide, an increase of 1,825 from the previous year,” but the number of students continuing school was 72, 689 in 2008/2009 school year out of 89,435 funded by Transitional Bilingual Instructional Program.

In 2006 19.7 % of the US population spoke language other than English, including 12.2% Spanish from whom 52.7% spoke English very well and 44.1% less than very well. Other languages were 3.7% Indo-European, Asian 3% and other languages 0.8%.

The trends in demographics, language spoken at home, the cultural dilemmas, and the school dropout are necessary to research in order to be effective and efficient service.

For comparison, it repeats - English only decreased: 86.18% in 1990 when the population was 198,600,798 and 82.11% in 2000 (population of 215,423,557) includes a decrease to 80% of those who are 5 and older (the school-age population).

The knowledge of the population and their language acquisition in Washington State give us the focus on the degree of the dropout issues regionally and if solved successfully, it can be replicated further.

Deussen, T. (2008) states that about 8 percent of all students served in the state of Washington (over one million) were served in the Transitional Bilingual Instructional Program. The population in the United States and Washington State is growing, especially foreign born.

The number of people living in the Washington State where a language other than English is spoken rose to 14% in 2000 (from 6.9% in 1980 and 9% in 2000).

Camacho, A. (2009) confirms that the family is the core value for Hispanics who are a mix of European, African, and Native American people. They are very diverse “with cultural subtleties,” and “one size fits all” approach does not fit - the important factor is also the level of responsibility the family members feel. Since one in seven people in the United States are Hispanic, this is the trait that is important to consider.

Wagner, T. (2008) points out to a global picture when examining all the stakeholders the students are affected the most because “high school graduation rate in the United States – which is about 70 percent of the age cohort” place United States behind “Denmark (96 percent), Japan (93 percent), and even Poland (92 percent) and Italy (79 percent).

Demographics and Psychographics

Many students who learn English as another language living in the U.S.A. drop off school. They do not reach advanced English proficiency levels that would allow them to function successfully. The focus on utilizing the culture knowledge is relevant in this segment of population.

From 2001 when NCLB (No Child Left Behind) Act came into existence, Biancarosa, C., & Snow, C. E. (2006) noticed that “there appears to be an increase in the number of high school” that do not graduate English Learners (ELLs) “because they failed high-stakes tests despite fulfilling all other graduation requirements”. On the other hand, plans of introducing the English Learners to norms and expectations in the US schools are non-existent. The students do not receive much attention until they get in trouble or have not achieved the goals their peers did.

That is why the focus on demographics and psychographics that involve values, attitudes, and the lifestyles, beyond the numbers will determine an opportunity to improve the services

Solis, B. and Breakenridge, D. (2009) state that it is important to engage and take a part in discussions and feedback and to be “socially aware organizations” that include the knowledge gained this way. It enables to balance “profiles with psychographics.”

The image that emerges represents typical members of targeted segment of a given group. The students are predominantly Hispanics.

Camacho, A. (2009) points at “allocentrism (or collectivism) that is the tendency of Hispanics to put the group’s welfare before their own personal welfare.”

Cultural competency (non-existent in Tahoma) and implementation is to bring the understanding of the issues that may assist or hinder the students’ progress and graduation on time.

(References provided upon request).

Malagon, Helen – was to be a witness – but the Superior Court dismissed the case with prejudice.

EXHIBIT B p. 8
RESPONSE BRIEF OF PETITIONER/APPELLANT



My CATHOLIC FAITH *ministries*

A Resource to the Catholic Archdiocese of Seattle

Dear Friend,

I am writing you with an update on the publication of the marriage book. I can only thank you for your patience in waiting as long as you have. This has been the most difficult book to write, for several reasons.

First, the message of this book is the most personal of any of my books and is the core message that is at the center of my life. Because of that, I have had a very difficult time coming to grips with the fact that I am unable to write down the message with the level of clarity, depth and beauty that it has for my life. I don't want to settle for less and publish a book that fails to convey what it means to me.

Second, the book itself is has gone through several versions, each time it has become shorter. The difficulty here is that I have too much material to include in the book. We have learned that most of our intended audience for the book want it to be around the same length as my book on the Mass (about 120-130 pages). We have literally trimmed back more than 170 pages of material to get it to be where it is. This has been time consuming and messy, because it means that we have to redo transitions between points in the chapter and figure out how to shorten many sections of the book.

Third, because of the financial challenges we face as a ministry, I have had to spend much more time speaking this year. That has meant that I have had much less time to work on the book than with my previous books.

Fourth, writing is neither easy nor fun for me. I fail miserably as a writer. I sit and work for hours on a section and end up practically where I began. God uses writing as a means to humble me greatly. The amount of undisturbed, unburdened time I need to get even small amounts of writing done is inordinately large. I do not like to fail and this book is doing a great job of driving me to my knees.

With all of that said, I have not given up. The book is almost entirely written, but it still needs to be cleaned up. This is happening now, with the help of others. I am embarrassed by the fact that we as a ministry have committed three times to get the book done by a deadline and then missed the deadline. It is entirely my fault and for that I am sorry and ask your forgiveness.

I have learned many lessons from the writing process I used to write this book. First is, I will not use it again. I am changing it significantly and hopefully that will allow it to be published without so much anxiety and missed deadlines.

EXHIBIT C p.1

One other lesson is not to promise a deadline for when the next book will be ready. I will save that announcement for when the book is actually at the printers. Because of that, I will not be giving you an updated deadline on this marriage book. I do not want to face missing another deadline.

As a ministry, we have tried to make up for the fact that we have missed deadlines in the past. I hope you will grant me mercy for having missed this past deadline.

I am committed to finishing the book. The message is so important and I am convinced God intends us to share this message in a book form.

Please know that we will be in touch with you as soon as we get a solid date back from the printers... that means that we have finished the book and it is being printed. I will not promise another deadline and miss it.

Please pray for me and for this process. It has been a long labor, but I hope it bears good fruit. In some ways, you and many others who have been waiting for the book in vain have (willingly or not) been drawn into carrying the cross of getting the book published with me. I am sorry for that, but hope that you understand better why the book is delayed.

Peace and all good things,



*Dr. Tom Curran
Executive Director
My Catholic Faith Ministries*

EXHIBIT C p.2

MATTER OF PEUGNET

In Deportation Proceedings

A-27538066

Decided by Board January 29, 1991

- (1) The definition of the terms "routine service" and "personal service" provided by 8 C.F.R. § 103.5a(a) (1990) only applies to administrative proceedings before Immigration and Naturalization Service officers and consequently is not directly or formally applicable to defining the terms "routine" and "personal" service as used in 8 C.F.R. § 242.1(c) (1990) regarding the proper service on an alien of an Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien (Form I-221S) as a means of instituting deportation proceedings.
- (2) In interpreting the terms "routine" and "personal" service as used in 8 C.F.R. § 242.1(c) (1990), the Board of Immigration Appeals will use the definition provided in 8 C.F.R. § 103.5a(a) (1990) as guidance and adopt that definition in total, given that 8 C.F.R. § 103.5a(a) (1990) previously applied in defining "routine" versus "personal" service of an Order to Show Cause and there exists no currently applicable regulation defining these terms for purposes of 8 C.F.R. § 242.1(c) (1990).
- (3) For purposes of defining "routine" and "personal" service within the meaning of 8 C.F.R. § 242.1(c) (1990), routine service consists of mailing a copy of a document by ordinary mail addressed to a person at his last known address, while personal service, which shall be performed by a government employee, consists of any of the following, without priority or preference: delivery of a copy personally; delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion; delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge; mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.
- (4) An alien's deportation hearing may not proceed in absentia where the Order to Show Cause is sent to the alien's address by regular mail and is not reserved by personal service as required by 8 C.F.R. § 242.1(c) (1990) after the alien fails to appear for the hearing or acknowledge that he has received the Order to Show Cause.

CHARGE:

Order: Act of 1952—Sec. 241(a)(2) [8 U.S.C. § 1251(a)(2)]—Entered without inspection

ON BEHALF OF RESPONDENT:
Adalsinda Lomangino, Esquire
780 N.W. 42nd Avenue, Suite 509
Miami, Florida 33126

ON BEHALF OF SERVICE:
Lisa Furbee Ford
General Attorney

BY: Milhollan, Chairman; Dunne, Morris, Vacca, and Heilman, Board Members

EXHIBIT Cp. 3

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The Honorable Michael Heavey
Hearing Date: November 2, 2007, 9:00 a.m.

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

FEDERAL WAY SCHOOL DISTRICT
NO. 210, a municipal corporation; et
al.,

Plaintiffs,

v.

THE STATE OF WASHINGTON,

Defendants.

NO. 06-2-36840-1 KNT

~~ORDER DENYING~~
PLAINTIFFS' SUMMARY
JUDGMENT MOTION

Granting
MLK

THIS MATTER came on regularly for hearing before the undersigned judge of the above-entitled Court on Plaintiffs' motion for summary judgment, which was fully briefed by the parties and then argued on Friday, November 2, 2007. This Court has considered the pleadings and files in this case, including:

1. Plaintiffs' Motion for Summary Judgment;
2. The Declaration of Lester "Buzz" Porter, Jr., dated October 4, 2007, in Support of Plaintiffs' Motion for Summary Judgment, and the exhibits attached thereto;
3. The Declaration of Sally McLean, dated October 4, 2007, in Support of Plaintiffs' Motion for Summary Judgment, and the exhibits attached thereto;
4. Defendant's Opposition to Summary Judgment;

~~ORDER DENYING~~
PLAINTIFFS' SUMMARY JUDGMENT
MOTION

ATTORNEY GENERAL OF WASHINGTON
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PO Box 40100
Olympia, WA 98504-0100
(360) 753-6200

EXHIBIT D p.1

1 5. The Declaration of David Stolier, dated October 22, 2007, in Support of
2 Defendant's Opposition to Summary Judgment, and the exhibits attached thereto;

3 6. The Declaration of Julie Salvi, dated October 19, 2007, in Support of
4 Defendant's Opposition to Summary Judgment, and the exhibits attached thereto;

5 7. The Declaration of Michael D.C. Mann, dated October 19, 2007, in Support of
6 Defendant's Opposition to Summary Judgment, and the exhibits attached thereto; and

7 8. Plaintiffs' Reply Brief ~~with supporting declarations, if any.~~ *MSH*

8 Having reviewed these materials and having heard from the parties, and the Court being
9 fully informed,

10 IT IS HEREBY ORDERED that:

11 1. Plaintiffs' Motion for Summary Judgment is ~~DENIED~~ *Granted MSH*

12 DONE IN OPEN COURT this 2nd day of November, 2007.

13
14 *Michael Heavey*
15 MICHAEL HEAVEY, JUDGE

16
17 Presented by:

18 ROBERT M. MCKENNA
19 Attorney General

20 *David Stolier*
21 DAVID STOLIER, WSBA No. 24071
22 DIERK J. MEIERBACHTOL, WSBA. No. 31010
23 Assistant Attorneys General
24 Attorneys for STATE OF WASHINGTON

25 Approved as to form and for entry;
26 Notice if presentation waived

EXHIBIT D p. 2

1 DIONNE & RORICK

2

3



4

LESTER "BUZZ" PORTER, WSBA No. 23194

5

KATHLEEN HAGGARD, WSBA No. 29305

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LYNETTE MEACHUM BAISCH, WSBA No. 37180

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Attorneys for PLAINTIFFS

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PROPOSED ORDER DENYING
PLAINTIFFS' SUMMARY JUDGMENT
MOTION

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ATTORNEY GENERAL OF WASHINGTON
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EXHIBIT D p. 3

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

FEDERAL WAY SCHOOL DISTRICT NO. 210, a
municipal corporation; ED BARNEY; CYNTHIA
BLACK; EVELYN CASTELLAR; GINGER
CORNWELL; CHARLES HOFF; DAVID
;ARSON, individually and as guardian for
ANDREW LARSON and JOSHUA LARSON;
THOMAS MADDEN, individually and as guardian
for BRYCE MADDEN; SHANNON
RASMUSSEN; SAANDRA RENGSTROFF,
individually and as guardian for TAYLOR
RENGSTORFF and KALI RENGSTORFF,
Plaintiffs,
V.
THE STATE OF WASHINGTON;
CHRISTINE GREGOIRE, in her capacity as
Governor of the State of Washington; TERRY
BERGESON, in her capacity as Superintendent
of Public Instruction; BRAD OWEN, in his
capacity as President of the Senate and principal
legislative authority of the State of Washington;
FRANK CHOPP, in his capacity as Speaker of
the House of Representatives and principal

NO. 06-2-36840-1 KNT
SUMMARY JUDGMENT OPINION

ORIGINAL

-1
EXHIBIT 2 p 4

1 legislative authority of the State of Washington

2 Defendants.

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GENERALLY

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First of all, this decision should in no way be construed to find or even suggest that the legislature has not provided for full funding of education in the Federal Way School District.

This decision will only be temporary. The losing party on each issue, will appeal this matter to the Washington State Supreme Court who will review this matter completely anew based upon the record presented to this court. Their decision will be the final word. Normally, on a summary judgment decision the judge lists the documents that he or she considered and then the order reflects whether the motion was granted or denied. I am going outside the normal process in attaching this opinion to the order because of the importance of the issue and for non-lawyers and those not at the hearing to know why I decided the way I did.

If this decision is upheld by the Washington State Supreme Court it will be of little moment. The State legislature has been moving closer to equalization over the years and getting there will not require great effort. For example, the state currently pays the vast majority (271) of school districts \$32,746 per teacher (before adjustments are made for staffing mix). There are 24 districts who are paid from \$32,763 to \$34,612 (Everett).

In a way this court is particularly well suited to hear this matter. After 14 years in the legislature, 1987 to 2000, I am aware of equalization attempts (e.g. 1987 levy equalizations) and the politics that frustrate educating all of the States' students equally. I have great respect and admiration for the legislators, past and present of both parties, who labor hard at providing for the education of all our state's children.

EXHIBIT² p. 5

1 Of particular note is State Representative Helen Sommers who is currently the chair of the
2 House Appropriations Committee. In 1978 representative Sommers filed a friend of the court brief
3 urging the Supreme Court to overturn prior case law and declare the then funding of state schools
4 unconstitutional. On a personal note I had the privilege to be seated next to Representative
5 Sommers on the House floor in the 1987 and 1988 legislative sessions.

6 In a way this court is *not* well suited to hear this matter. I am reminded of the wise saying
7 "You are never a prophet in your own land." Nevertheless, this decision has fallen to me for the
8 moment.

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FACTS

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The legislature essentially pays money to school districts based upon the number of students in a school district. The number of students authorizes a specific staff allocation and then the legislature allocates money for the payment of staff. Staff are divided into three categories: 1) teachers, 2) administrators, and 3) classified staff. The amounts paid have ranges in each of the three categories. Because of the "ranges" there are 258 different funding levels for the State's 295 school districts.

Classified staff salary allocated in the 2007-08 school year has a range from \$30,111 (shared by 171 districts) to a high of \$35,227 in the Seattle School District.

Administrative staff has the greatest disparity among the three. Four districts received the top salary allocation for certified staff which was \$80,807 and 61 districts were at the bottom with an allocation of \$54,405. The administrative staff allocations have no relationship to actual costs. In 2006-07 Federal Way paid an average of \$94,486 per administrator, quite a bit more than the \$54,405 the state funds for 2007-08.

1 Teaching staff is the closest in equality. In 2007-08 the state will pay a base salary to
2 teachers in 272 districts the amount of \$32,746. Twenty-three districts receive more with the
3 Everett district receiving the high of \$34,612. From the base the state adds money for the staff
4 mix, the more education and experience a teacher has the more money the state pays out. State
5 law prohibits the school districts from paying their teachers an average salary that exceeds the
6 district's average salary allocation received from the state. Therefore teachers in Everett will
7 receive an average of \$1,866 more than the average teacher salary in Federal Way and 270 other
8 school districts.

9 Federal Way is at the bottom level in all three salary allocation ranges.

10 On a per student basis the following are the allocations received from the State for the
11 2007-08 school year:

12	Federal Way	\$ 3,005.31
13	Highline	\$ 3,075.47
14	Vashon	\$ 3,184.33
15	Tacoma	\$ 3,118.71
16	Shaw Island	\$ 3,707.20
17	Index	\$ 2,766.00
18	Skykomish	\$ 3,270.33
19	Everett	\$ 3,322.23

20
21 If Federal Way were paid the same per student as Tacoma they would have received an
22 average of \$114.40 more per student for a total of \$2,380,946.40 more to the district in the 2007 -
23 08 school year.

24 If Federal Way were paid the same per student as Everett they would have received an
25 average of \$316.92 more per student for a total of \$6,654,052.32 more to the district. The

EXHIBIT D p. 7

1 allocations from the State have a ripple effect that further affect allocations for special education
2 and levy authority.

3 Some of these disparate levels of funding are due to the staffing mix of each district but
4 most are based on actual average salaries in the 1976-77 school year. The disparate salary levels
5 have been brought forward by "grandfathering". So if a school district paid any or all of the three
6 staffs comparatively low in 1976 -77 -- they have been locked into those low numbers for the last 30
7 years.

8 In 1976-77 teacher/administer salaries ranged from a low district average of \$7200 to a
9 high of \$18,300. Classified salaries ranged from a low of \$5,000 average to a high of \$12,509.
10 The ranges between school districts have narrowed over the years but because of their being
11 "grandfathered" are still the main reason for the disparities in the funding of school districts. These
12 disparate salary ranges have no relation to current circumstances or current realities.

13 The Reff report published in 1982 reports on p. 44, after noting the large salary variations:

14 "Regardless of the cause, once the staff ratio concept had been
15 determined, a salary component needed to be developed and the wide
16 variation in pay practices and salary taken into consideration. There
17 appeared to be general legislative agreement that in the interest of
18 equity, and perhaps to comply with the court mandate, the wide range
19 in salaries needed to be narrowed. There was also agreement that
20 politically and economically this narrowing could not take place immed-
21 iately; it would have to occur over a period of years"

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23 Significant narrowing has occurred over the years but equity has not been reached.

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LAW AND DECISION

EXHIBIT D p. 8

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1. Article IX, Section 1 of the Washington State Constitution provides:

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, cast or sex.

The Plaintiffs have failed to prove beyond a reasonable doubt that they are not amply funded.

2. Article IX, Section 2 of the Washington State Constitution requires "The legislature shall provide for a general and uniform system of public schools."

In December of 1974 the Washington Supreme Court held –

"That the public schools are partly funded with local property taxes does not deprive the system, we think, of those constitutional qualities described as general and uniform...A general and uniform system, that is, a system which, within reasonable constitutional limits of equality, makes ample provision for the education of all children, cannot be based upon exact equality of funding per child because it takes more money in some districts per child to provide about the same level of educational opportunity than it does in others."

Northshore School District v. Kinnear, 84 Wn.2nd 685 at 727, 728(1974)

Thus within a "general and uniform system of public schools" the legislature could constitutionally and rationally create different funding levels that stem from differences in educational costs. However, the disparities in the current system are not based on the cost of providing educational opportunity in any district. Instead the disparities are bases upon historic

1 salary levels paid during the school year of 1976 -77 when according to the Supreme Court of
2 Washington, the State of Washington school funding system was not general and uniform. See
3 *Seattle School District v. State*, 90 Wn.2nd 476 at 519 (1978) where it held that Legislature "has not
4 fully implemented Const. Art. 9, Sections 1 and 2."

5 In *Brown v. State* 155 Wn.2nd 254, at 269(2005) the Supreme Court held "With every
6 passing year, the state's contribution to the budgets of districts... would increase in comparison to
7 those districts that did not. Thus some districts would receive more state funding than others,
8 quickly violating the constitutional command that the State provide a general and uniform
9 education." Thus, the current funding at disparate levels with no rationale for differences violates
10 the constitutional requirement of providing a general and uniform system.

11 To the extent the *Northshore School District v Kinnear* case holds the state can fund
12 school districts at unequal levels; this court believes it is no longer good law. Its precedent value is
13 suspect. Put in context with the general overruling of *Kinnear*, its finding regarding Article 9,
14 Section 2 has been overruled directly and by implication in *Seattle School District*. In the 1974
15 *Kinnear* case the minority opinion noted it was done in a "cavalier manner" and an opinion that
16 "may be short-lived." The dissent in *Kinnear* beginning on p. 731 of 84 Wn.2nd is quite an
17 interesting read. Not only interesting to read but prophetic. Less than four years later in *Seattle*
18 *School District v State*, 90 Wn.2nd 476 (1978) *Kinnear* was overruled extensively.

19 The State of Arizona 's Constitution Article XI, Section I is similar to our provision and
20 requires a general and uniform public education system. In *Hull v. Albrecht*, 960 P. 2nd 634 (Ariz.
21 1998) the Arizona Supreme Court held that the general and uniform public school system clause of
22 the Arizona Constitution, Art XI, Section I forbids "a state funding mechanism that itself causes
23 disparities between districts" and found also "the general and uniform requirement will not tolerate
24 a state funding mechanism that itself causes disparities between districts".

25

EXHIBIT 7
Dp. 10

1 The plaintiffs have shown proof beyond a reasonable doubt that school districts are funded
2 at disparate levels; that the different levels are based upon a discredited and unconstitutionally
3 funded system of 30 years ago. There is no rational reason to continue this. This violates the
4 general and uniform requirement of our constitution.

5
6 3. The State Constitution in Article 1, Section 12 requires equal protection
7 under the law. To wit, that similarly situated individuals have the right to be treated equally under
8 the law. This court does not feel a suspect class or fundamental right is involved.

9 Disparate treatment of similarly situated individuals "will be upheld unless it rests on
10 grounds wholly irrelevant to the achievement of legitimate state objectives." *State v. Shawn P.*,
11 122 Wn. 2nd 553, 561 (1993).

12 The disparate levels of funding are based upon the salaries in existence in 1976-77. The
13 legislature has many times tried to equalize the salaries, an admission that there is no rational
14 reason to continue this inequality and that the State objective should be to equalize funding.
15 Because of the vested interests in the *status quo* these disparate, irrational and inequitable salary
16 allocations will continue for the next thirty years if not found unconstitutional. This court finds that
17 basing funding levels on salary levels of 30 years ago is arbitrary and wholly irrelevant to the
18 achievement of legitimate state objectives. Today's State funding has no basis in reality and is a
19 vestige from a discredited and unconstitutional system. It cannot stand. This is not to say that the
20 State cannot fund in the future at disparate levels, if it is done on a rational basis; e.g. cost of living
21 adjustments, staffing mix, English as a second language, small school districts, etc. This court
22 finds and concludes that the current funding levels are irrational and cannot stand, they violate the
23 equal protection rights of Federal Way's students, teachers and taxpayers.

24 The court declines to make further rulings on issues presented by the Plaintiffs.
25

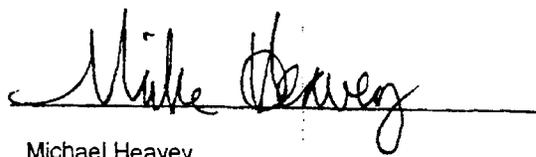
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EXHIBIT @ p11

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CONCLUSION

In conclusion this court finds that the disparate funding to school districts violates the constitution of the State of Washington because it is not general and uniform. Further it finds that the disparate funding violates the constitutional equal protection rights of Federal Way's teachers, students and taxpayers.

DATED this 2nd day of November 2007.



Michael Heavey
Judge of the Superior Court

EXHIBIT D p.12

The district is now examining "a ton of data," said Kathee Terry, director of curriculum for the district. But a first look shows that neither textbook came out the clear winner, she said.

In some classes, students did better with Holt; in others, with Discovering. Even when classes were evenly matched — similar demographics, similar scores on standardized tests — there was "a lot of variability," she said.

Bellevue's curriculum committee is planning to take a closer look at the data. In the meantime, the PTSA is trying to decide whether to reschedule its math-curriculum night to present the district's findings, then answer parents' questions.

The earlier event was canceled because "for us to sponsor this event, it had to be a balanced, open discussion where all sides were presented fairly, and where anyone could express an opinion or view without fear of being shouted down or treated rudely," said Bellevue PTSA President Janet Suppes in an e-mail.

The parents who want a more traditional approach say they will hold their own math night later this month and have invited the PTSA to participate.

"It looks to me, and many others, that Bellevue is trying to suppress any opposition to Discovering," said Sharon Peaslee, a Bellevue parent and member of the back-to-basics group Where'sTheMath?

Peaslee's group invited Cliff Mass, an atmospheric-sciences professor at the University of Washington and one of the people who sued Seattle over its math-textbook choice, to speak at the PTSA meeting that was later canceled.

Mass said he was planning to talk about how poorly students at the UW do on a standardized math test he gives them at the start of his classes — evidence, he says, that the way math is taught in high schools today does not work.

At the state superintendent's headquarters in Olympia last week, the Seattle case touched off a discussion about "how scary that might be" if OSPI were in the business of mandating curriculum materials, said spokesman Nathan Olson.

That might seem contradictory. OSPI is now endorsing only the Holt textbooks for algebra and geometry. And in the Thurston County lawsuit, OSPI successfully defended that decision.

But Stolier emphasized that OSPI's endorsement of Holt "is just a recommendation and not binding on anybody."

"We don't want to get involved" in curriculum decisions, Olson said. "We trust the local control process. We always have."

Katherine Long: 206-464-2219 or klong@seattletimes.com

Information in this article, originally published Feb. 14, 2010, was corrected Feb. 18, 2010. A previous version of this story used an incorrect first name for Dave Stolier, who is a senior assistant attorney general for the state of Washington.

binding or not
- if consequences on teacher's contract evidence paramount
- legislative intent.

EXHIBIT Dp. 13

If nothing changes, it is estimated that Washington the following years:

	Black	Hispanic	American Indian
4th Grade Reading	2022 (12 yrs)	2022 (12 yrs)	2029 (19 yrs)
4th Grade Math	2042 (32 yrs)	2050 (40 yrs)	2049 (39 yrs)
10th Grade Reading	2017 (7 yrs)	2017 (7 yrs)	2018 (8 yrs)
10th Grade Math	2064 (54 yrs)	2056 (46 yrs)	2058 (48 yrs)

It is imperative for schools to work for all students, regardless of the cultural, racial, ethnic, national or linguistic background. The reasons are simple and straightforward. A strong education system creates opportunity for Washington citizens. Well-educated citizens support our economic growth and a competitive advantage in a diverse and democratic society.

- Lower level content (rather than thinking, understanding and application skills).
- Less experienced and qualified teachers.
- Inferior or limited curriculum materials.
- Schools also reflect the culture of white, middle-class society, which can lead to a disconnect between students who come from different cultures and family conditions and traditional school structure and expectations.

We recognize that student achievement is influenced by factors outside of the classroom: history, economics, family and personal experience. But studies show that schools and educators have a significant impact on student achievement. Students of color and low-income students encounter:

- Lower expectations.
- Inadequate instruction and support from their schools and teachers.

along the path of total student disengagement from school – i.e., dropping out. When students give specific reasons for dropping out, it is often related to a history of poor grades, and a lack of progress toward graduation.

Compiled: G. Prouty

EXHIBIT D p. 14 public record

Tahoma School District Outcomes and Indicators

Original – Developed in 1990

Tahoma School District
Maple Valley, Washington

Outcomes and Indicators

I. Self Directed Learner

- a. Set Goals
- b. Persistence
- c. Decision-maker
- d. Reflective and evaluative
- e. Inquisitive

II. Collaborative Worker

- a. Sharing
- b. Empathy and respect
- c. Active Listener
- d. Flexible
- e. Encouraging

III. Effective Communicator

- a. Clarity of expression
- b. Range of methods – Multiple Intelligences
- c. Technologically literate
- d. Responsive to diverse audiences
- e. Interprets and Evaluates

IV. Community Contributor

- a. Provide service
- b. Harmonious
- c. Future Oriented
- d. Improve welfare of others
- e. Enhances the environment

V. Quality Producer

- a. High standards
- b. Reflects originality
- c. Uses a variety of expressions
- d. Aesthetically pleasing
- e. Criteria-based

VI. Complex Thinker

- a. Creative
- b. Problem-solver
- c. Risk-taker
- d. Analytical
- e. Metacognitive

Revised – 2000

Tahoma School District
skills that are essential for
lifelong learning

Self-Directed

- Set goals
- Show persistence
- Make effective decisions
- Evaluate work
- Use time effectively
- Strive for improvement

Community Contributor

- Consider global perspectives
- Demonstrate social and responsibility
- Respect and value diversity
- Enhance the community
- Engage in service

EXHIBIT D p.15

Outcomes and Indicators

Revised - 2007



Outcomes & Indicators

Tahoma School District students are expected to develop 21st Century learning and thinking skills that enable them to understand and exhibit these district outcomes and become lifelong learners.

Self-Directed Learners

- Set goals
- Show persistence
- Make effective decisions
- Evaluate work
- Use time effectively
- Strive for improvement

Collaborative Workers

- Contribute to shared vision
- Demonstrate flexibility
- Show empathy and respect
- Listen actively
- Are accountable
- Build on other people's thinking

Effective Communicators

- Communicate with clarity and precision
- Deliver information effectively in multiple formats
- Interact with globally diverse audiences
- Listen, interpret and evaluate

Community Contributors

- Consider global perspectives
- Demonstrate personal, social and civic responsibility
- Respect and value diversity
- Enhance the environment
- Engage in community service

Quality Producers

- Develop and/or utilize criteria
- Aspire to exceed expectations
- Skillfully use tools, resources and technology
- Demonstrate accuracy and precision
- Create aesthetically pleasing work

Complex Thinkers

- Imagine, create and innovate
- Recognize and appreciate humor
- Gather, filter and synthesize information
- Access multiple problem solving strategies
- Reflect on and apply past learning to new experiences
- Generate questions to deepen understanding
- Explore and take risks

EXHIBIT D p. 16

MEETS STANDARDS:

CLASSROOM ENVIRONMENT

Creates a classroom environment that is safe, inviting, respectful, and developmentally appropriate.

- Provides for interactions that are consistently appropriate to student’s culture, gender, and individual differences
- Reflects commitment to TSD Outcomes and Indicators
- Conveys enthusiasm for learning
- Uses technology to motivate and engage students in the learning

LESSON PLANNING & DESIGN

Consistently implements state and strict adopted curriculums:

- Uses curriculum documents (i.e. continuums, implementation guidelines, preferred visions, unit notebooks, etc.)
- Designs lessons with clear objectives focusing on concepts, skills, and strategies (i.e. nested objectives and classroom 10) *training 01/04/09 - TSDS discussed*
- Integrates curriculum through essential questions, key concepts/themes, thinking skills, Habits of Mind and district outcomes
- Applies current research and best practices in delivery of instruction
- Incorporates reflection and assessment results in order to improve future lessons
- Intentionally plans for the appropriate use of technology to enhance learning

*↑
TSDS discussed
↑
TSDS discussed*

CLASSROOM MANAGEMENT

Creates classroom structures and communicates clear expectations in a manner that encourages appropriate behavior and promotes student learning:

- Responds to behavior in a manner that is appropriate, successful, and demonstrates respect for student
- Establishes management practices that result in minimal loss of instructional time, such as:
 - Routines for handling materials and supplies
 - Smooth transitions with clear directions

*Watts Sabores
Exp. Dec 1
Mesa
Dec 17 end*

ASSESSMENT

Creates and utilizes multiple and appropriate assessment tools:

- Aligns tools with lesson objectives to frequently monitor student learning and set future goals, including:
 - Rubrics, scales, checklists
 - Performance assessments
 - Objective tests
 - Portfolios
 - Student self-reflections and critiques
- Communicates clear assessment criteria and standards to students and families
- Uses data management systems to access and interpret data to make instructional decisions

INSTRUCTIONAL AND CLASSROOM TEACHING PRACTICE

Develops a repertoire of instructional and classroom teaching practices including:

- Using a wide variety of active processing strategies to engage students in learning
- Stating learning objectives, giving clear directions, and consistently checking for understanding
- Mediating student thinking through questioning strategies, thinking skills, and Habits of Mind applications
- Differentiating Instruction through:
 - Use of technology
 - Flexible grouping (e.g. cooperative learning, small groups, peer partners)
 - Multiple intelligences
 - Monitoring and modifying instruction: content, skills, time
- Incorporates appropriate technology to improve learning

PROFESSIONAL DEVELOPMENT AND RESPONSIBILITIES

Demonstrates continual commitment to professional growth and improved student learning:

- Seeks out opportunities for staff development to enhance content knowledge and teaching skill
- Uses feedback for the purposes of self-reflection and goal setting
- Participates in development and support of the building site plan and district initiatives
- Accesses available resources and personnel to support students
- Assumes responsibility for parent communication in a professional and timely manner

Contributes as a member of a professional learning community:

- Intentionally models TSD Outcomes and Indicators
- Practices effective communication skills (SPACE)
- Presumes positive intent in working with students, families and colleagues
- Employs a fully effective system for managing paperwork and timelines

EXHIBIT D p.17

Inclusion Protocol

1. Check teacher websites or email teachers at least a day before the class you will be in to understand the focus of the lesson for the day.
2. Once you understand the focus of the lesson, evaluate it for areas that need to be modified to help your ELL student access the information.
3. Before class create/modify any documents the student will need to help him/her better understand the lesson of the day.
4. Do not bring undue attention to the ELL students when you are in the classrooms (ie. do not sit right next to or behind the ELL student).
5. Become as much a part of the class as you can by listening to the teacher and helping any student that needs help.
6. Any communication with the teacher needs to occur at appropriate times:
 - a. After instruction
 - b. When the teacher is not engaged with other students
 - c. After class or via email (preferred)
 - d. ?
 - e. ?
7. Fill out the logs as required in order to document any modifications you have made to assignments and how you communicated the modifications to the teacher.

This is Tahoma
School District

Inclusion Protocol

EVIDENCE: What
haven't I done?

Frouty

EXHIBIT D p. 18

INCOMING SCHOOLS SUPE PAYS FIRST VISIT TO DISTRICT SINCE SELECTION

Strong reputation for instilling leadership

But the School Board wants to make more headway at helping lower-income students perform better. About 18 percent of Bellevue's students are on free- or reduced-price lunch, and more than 80 languages are spoken by students in the district's increasingly diverse schools.

Cudeiro says her first job will be to listen to what others have to say, especially teachers who went on strike six months ago over the district's standardized curriculum. "I am going to have to spend a little time understanding what has been put in place," she said.

Cudeiro's most recent public-schools job was as deputy superintendent of Boston Public Schools from September 1999 to June 2001. After that, with her husband, Jeffrey Nelsen, she founded a consulting firm, Targeted Leadership Consulting. She became an adjunct lecturer at Harvard University's Urban Superintendents Program in June 2004.

As a consultant, she's worked in school districts across the country, helping principals and teachers become better leaders and work together more effectively. The company also diagnoses a district's weak areas by examining data that show how students are doing, then building a curriculum based on that work.

"She has had the unusual experience of having been in literally dozens of school districts," said Tom Payzant, a professor at the Harvard Graduate School of Education. "She has a frame of reference that's much broader than you'll see in a lot of candidates."

As a consultant, she's done work in Edmonton, Alberta, Canada; Chicago;

Chula Vista, Calif.; Elizabeth, N.J.; and internationally with Department of Defense schools.

Payzant was superintendent of Boston Public Schools when Cudeiro worked as deputy superintendent. He described her as a good listener but someone who didn't hesitate to make tough decisions, such as not renewing the contract of a principal who wasn't doing a good job.

One of her high-profile assignments was to overhaul Boston High, a school with some of the lowest test scores in the district.

Lowell Billings, the superintendent of Chula Vista Elementary School District in California, worked with Cudeiro's consulting firm on education reform in the diverse district south of San Diego. "Our achievement trends have been rather impressive, and Amalia played an important part in that," Billings said.

He said Cudeiro's work, which focused on developing better leadership skills among principals, helped raise test scores in low-income schools. But it also helped schools in well-to-do neighborhoods, where there was a core of students whose failure rate was masked by the overall success of the system.

As a mother, Cudeiro has also known what it's like to battle the system. She spent years trying to find a Boston public-school program that would help her dyslexic daughter catch up to peers.

She said she eventually "had to make a real tough decision" to pull her daughter from public school and put her in private school.

Cudeiro's daughter is now in college and doing well, she said.

Katherine Long: 206-464-2219 or klong@seattletimes.com

Example:
• looking for relevant leadership

understanding what "has been put in place"

Tahoma Junior High Discipline Occurrence Report
2005/2006

Grd	Offense	2005 Occura.	2005#	2004 Occ.	2004 # St.
8	NOT MEETING ACADEMIC EXP	66	52	241	91
8	AGGRESSIVE BEHAVIOR	24	22	45	32
8	ASSAULT	3	3	5	5
8	DEFIANCE AUTHORITY	10	9		
8	BREAK BEH CONTRACT	1	1		
8	CHEATING 1ST OFFENSE	21	21	69	66
8	CHEATING 2ND OFFENSE	1	1	3	3
8	DISOBEDIENCE	313	155	182	97
8	DISRESPECTFUL	31	26	40	27
8	COMPUTER MISUSE	10	10		
8	DISRUPT/DRESS/APPEAR	3	2	10	10
8	DISRUPTIVE CONDUCT	128	73	151	85
8	FOOD VIOLATION	39	34	78	54
8	ELECTRONIC DEVICE	4	4	4	4
8	EXPLOSIVES	2	2	1	1
8	FALSE ACCUSATION	1	1		
8	FAIL TO DO DETENTION	78	50	35	28
8	FAIL TO COMPLETE SDD	11	9	9	7
8	FAIL TO COMPLETE FDD	20	14	8	6
8	FIGHTING	7	7	12	12
8	FAIL TO ATTEND ISS	2	2		
8	FORGERY	13	11	12	11
8	FAIL SIGN INFRACTION	64	43	44	35
8	FAIL TO CLEAR ABS	192	116	5	5
8	INCIDENT	1	1		
8	HARRASSMENT	27	25	47	36
8	IGNORING DIRECTIONS	3	3		
8	INAPPROPRIATE LANGUAGE/GESTURE	8	6		
8	LOIT PRES MISCONDUCT	5	5	15	15
8	LYING TO AUTHORITY	6	5	13	11
8	LACK OF RESPECT/RESPONSIBILITY	1	1		
8	MISUSE OF INTERNET	18	17	22	17
8	MULTIPLE INFRACTIONS	60	27	28	19
8	OFFENSE SOC BEHAV	5	5	3	3
8	OTHER UNSAFE/DISRESP	124	85	160	101
8	PER ATTEND CONTRACT	11	3	50	11
8	PUB DISPLAY AFFECT	16	15	6	3
8	PHYSICALLY HURTING OTHERS	1	1		
8	PROFANITY	18	16	25	21
8	5 UNEXCUSED ABSENCES	11	10		
8	PARENT CONFERENCE	1	1		
8	PARENT NOTIFIED	3	2		
8	PETITION FILED BY SCHOOL	3	3		
8	SPITTING	3	3	8	7
8	TOBACCO 1ST OFFENSE	4	4	1	1
8	TARDY 1ST OCCURRENCE	2	2	2	2
8	TARDY 2ND OCCURRENCE	63	44	53	45
8	TARDY 3RD OCCURRENCE	13	10	13	11
8	TARDY 4TH OCCURRENCE	3	3	1	1
8	TARDY 5TH OCCURRENCE	1	1		

EXHIBIT D p.20

Tahoma Junior High Discipline Occurrence Report
2005/2006

8	HABITUAL TARDIES	3	2		
8	THEFT	11	9	14	11
8	THROWING OBJECT	76	63	46	39
8	THREAT	8	7	8	7
8	TRUANT 1ST OFFENSE	13	12	34	29
8	TRUANT 2ND OFFENSE	3	3	7	6
8	TRUANT 3RD OFFENSE	4	3	5	5
8	TRUANT 5TH OFFENSE	1	1		
8	TRUANT 6TH OFFENSE	1	1		
8	TRUANT 7TH OFFENSE	1	1		
8	EXCESSIVE TRUANCIES	11	4		
8	IN UNAUTHORIZED AREA	28	25	22	21
8	VANDALISM	11	10	12	10
8	VULGAR/LEWD CONDUCT	1	1		
8	Drugs	4	4	3	3
8	Weapons	2	2		
9	NOT MEETING ACADEMIC EXP	34	24	127	65
9	AGGRESSIVE BEHAVIOR	36	31	41	27
9	ASSAULT	2	2	7	7
9	DEFIANCE AUTHORITY	12	11		
9	BULLYING	3	2		
9	CHEATING 1ST OFFENSE	36	34	60	56
9	CHEATING 2ND OFFENSE	2	2	5	4
9	DISOBEDIENCE	212	130	137	80
9	DISRESPECTFUL	52	42	34	26
9	COMPUTER MISUSE	9	9		
9	DRUGS 1ST OFFENSE	1	1	6	6
9	DISRUPT/DRESS/APPEAR	11	7	2	2
9	DISRUPTIVE CONDUCT	133	85	108	63
9	FOOD VIOLATION	109	67	59	45
9	EXTREMELY DISRUPTIVE	4	3	1	
9	ELECTRONIC DEVICE	6	6	1	1
9	FAIL TO DO DETENTION	62	42	50	36
9	FAIL TO COMPLETE SDD	9	9	4	3
9	FAIL TO COMPLETE FDD	17	12	18	
9	FIGHTING	15	15	9	7
9	FAIL TO ATTEND ISS	1	1		
9	FORGERY	11	11	7	7
9	FAIL SIGN INFRACTION	48	39	32	24
9	FAIL TO CLEAR ABS	212	118	2	2
9	GANG BEHAVIOR	3	1	1	1
9	HARRASSMENT	27	20	35	28
9	IGNORING DIRECTIONS	1	1		
9	INAPPROPRIATE LANGUAGE/GESTURE	11	10		
9	LOIT PRES MISCONDUCT	9	9		
9	LEWD CONDUCT/BEHAV	2	2	2	2
9	LYING TO AUTHORITY	10	10		
9	LIGHTER	1	1	1	1
9	LACK OF RESPECT/RESPONSIBILITY	4	4		
9	MISUSE OF INTERNET	25	24	35	31
9	MULTIPLE INFRACTIONS	59	35	20	16
9	OFFENSE SOC BEHAV	10	10	3	3

EXHIBIT W p. 20¹

Tahoma Junior High Discipline Occurrence Report
2005/2006

9 OTHER UNSAFE/DISRESP	125	96	160	101
9 PER ATTEND CONTRACT	34	10	24	11
9 PUB DISPLAY AFFECT	36	18	18	15
9 PROFANITY	25	19	36	28
9 5 UNEXCUSED ABSENCES	11	9		
9 PARENT CONFERENCE	2	2		
9 PARENT NOTIFIED	2	1		
9 PETITION FILED BY SCHOOL	4	4		
9 TRUANCY BOARD REFERRAL	1	1		
9 SPITTING	2	2		
9 TARDY 1ST OCCURRENCE	7	7		
9 TARDY 2ND OCCURRENCE	84	63	47	36
9 TARDY 3RD OCCURRENCE	18	17	7	5
9 TARDY 4TH OCCURRENCE	1	1	1	1
9 HABITUAL TARDIES	22	6		
9 THEFT	31	28	15	15
9 THROWING OBJECT	74	60	24	20
9 THREAT	6	6	2	2
9 TRUANT 10TH OFFENSE	1	1		
9 TRUANT 1ST OFFENSE	27	26	50	38
9 TRUANT 2ND OFFENSE	9	9	5	4
9 TRUANT 3RD OFFENSE	4	3	2	2
9 TRUANT 4TH OFFENSE	3	3	2	2
9 TRUANT 5TH OFFENSE	3	3		
9 TRUANT 9TH OFFENSE	1	1		
9 EXCESSIVE TRUANCIES	9	5		
9 IN UNAUTHORIZED AREA	50	44	27	25
9 VANDALISM	20	17	4	4
9 Drugs	15	15	7	7
9 Weapons	3	3	1	1
Total.....	3462	2424		

EXHIBIT D p. 20²

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Erickson, T. (2010). The Leaders We Need Now. (~~cover story~~). *Harvard Business Review*, 88(5), 62-66.
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Section: SPOTLIGHT ON LEADERSHIP: THE NEXT GENERATION

The Leaders We Need Now

Generation X will produce executives who bring a distinctive sense of realism to the modern corporation.

A NEW COHORT of leaders is poised to take senior executive roles and is bringing with it a whole new mind-set. Baby Boomers have been firmly in charge for the past few decades, and as a rule they have been willing to operate by a well-understood set of corporate practices and policies related to compensation, hierarchy, and expectations for the way work "works." Generation Xers, born from 1961 through 1981, have different ideas. They're more apt to reject status-quo definitions of success and seek their own paths.

The differences can be traced to the times during which each group came of age and formed its attitudes toward work and society. Although it's impossible to draw neat boundaries along generational lines and unproductive to overgeneralize, we are each, in part, a product of our time. The formative years of Xers looked very different from those of Boomers.

For one thing, Baby Boomers grew up in a world that was fundamentally too small for them. The infrastructure couldn't expand fast enough to accommodate the sudden growth of this cohort. Boomers went to high school in Quonset huts behind the actual schools because there weren't enough rooms to hold them all. They've competed for everything throughout their lives--from spots on high school sports teams to college admissions, jobs, and promotions. Winning, for Boomers, is a very big deal.

The Xers' formative years--the 1980s and early 1990s--were broadly shaped by economic uncertainty and domestic social change. Their teens were a time of major corporate restructuring

EXHIBIT D p. 23

The psychological contracts between employers and employees were ripped apart in then-unprecedented ways. Before 1981, the word "layoff," in the sense of permanent separation from a job with no prospects for recall, was so uncommon that the U.S. Bureau of Labor Statistics didn't even keep track of such cuts. It's not surprising that younger managers are warier of corporate commitments.

Consider the following exchange, shared with me by a manager in an executive education class:

A Boomer approaches a Gen X manager. "Great news! You've won the promotion!" The Boomer waits for obvious signs of delight, then adds, "Of course, you'll have to relocate to Topeka." Dead silence.

"No thanks," the Xer flatly replies.

Even worse, after considering her options, the young manager quit. A talented, promising Gen Xer simply opted out of the hierarchy.

Herein lie the roots of the slacker myth. Almost any Boomer would be perplexed by this response and might leap rapidly to a value judgment about the Xer's commitment to the company or her career. It would be a short step to assume that the Xer lacked ambition, confidence, or perhaps even raw intelligence--after all, how could she not recognize what a big deal this is? Though misguided, these are the instinctive reactions from a generation that has been conditioned to see the business world as an ongoing game of musical chairs.

The Gen X manager, by contrast, grew up knowing that her company would ultimately view her as expendable. She didn't want to put all her eggs into one corporate basket and potentially be abandoned in a new city or pushed too deeply into one area of specialization. She is part of a generation that particularly prizes options--one with many members who are profoundly dissatisfied with corporate life as they see it.

It's time to acknowledge the legitimacy of both perspectives and to understand the other side. Xers are the future of our business; we need them not just because we'll have to replace Boomers as they eventually head into retirement, but also because they possess skills and attitudes that are especially suited to today's challenges.

The View from Gen X

Having interviewed or heard from hundreds of Xers from many parts of the world over the past several years, I have consistently found that the coming generation of leaders views work in a way that current corporate executives rarely understand. Meanwhile, Xers are resentful of the Boomers' ubiquitous presence and seemingly blithe assurance that their way is the only way forward. Xers are alienated from corporate America yet feel like underappreciated workhorses, caught between two much larger cohorts: Boomers, who are threatening to work later in life than other generations did,

EXHIBIT D p.24 (....)

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2004 dollars

Age Group	High school graduate or more	High school diploma/GED	High school dropout
18-22	~10,000	~10,000	~5,000
23-27	~20,000	~18,000	~12,000
28-32	~30,000	~22,000	~14,000
33-37	~35,000	~24,000	~16,000
38-42	~40,000	~26,000	~17,000
43-47	~42,000	~27,000	~17,000
48-52	~41,000	~26,000	~15,000

Source: Author's calculations using the March Current Population Surveys

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EXHIBIT E p.1



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Collaboration

**Real World
Context**

EXHIBIT E p 3

----- Original Message -----

From: Lorena Hendricks

Sent: Wednesday, February 16, 2011 5:31 PM

Subject: Another set of L! documents

Feb 16,
2011

Lorena Hendricks

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EXHIBIT E p. 4

Unit: Lesson:

SLEL: Speaking and Listening
to the English Language

□
Step 1:
Phonemic Awareness and Phonics

Step 2:
Word Recognition and Spelling

Step 3:
Vocabulary and Morphology

□
Step 4:
Grammar and Usage

\
Step 5:
Reading and Listening Comprehension

Lorena Agenda Headers

Step 6:
Speaking and Writing

□

"First They Ignore You...": THE TIME-CONTEXT DYNAMIC AND CORPORATE RESPONSIBILITY

Pietra Rivoli
Sandra Waddock

"First they ignore you, then they laugh at you, then they fight you, then you win."—Mahatma Gandhi

After nearly 30 years of research, three issues related to corporate social responsibility (CSR or in its more updated version, corporate responsibility, CR) remain unsettled.¹ First, we still lack an agreed-upon definition of CR, with the result that the concept often remains "vague and ambiguous"² or even "tortured."³ Second, the causal and empirical link between firm profitability and CR remains unsettled as well, though the literature now boasts some 170 related empirical studies. Finally, the debate continues over the appropriate role of regulations and laws versus voluntary CR programs in inducing certain corporate behaviors. *cause → effect*
Voluntary CR

One of the reasons that these questions have remained intractable is that what is considered to be responsible behavior by corporations shifts and becomes normalized through institutionalization processes⁴ over time, making it time and context dependent. Because public expectations shift,⁵ the baseline of acceptable corporate practice also shifts and expectations become institutionalized into norms of behavior as well as laws and regulations, so that corporate activities that are considered to be "unheard of" at one point are considered to be "responsible" at another point in time, "expected" at a third, and "required" at a fourth. *behavior*
↳ law & regula

This temporal dynamism, which follows a version of the public issue life cycle, suggests that there is a ratcheting quality to CR over time that makes

We thank the editor, three anonymous reviewers, and participants at the 3rd annual International Conference on Corporate Responsibility at Humboldt University in Berlin on October 8-10, 2008, for helpful discussions and comments.

EXHIBIT F p. 1

explicit understanding of what is and is not responsible corporate practice time- and context-dependent rather than generalizable. Although the notion that CR shifts over time is well understood, the implications of this time dynamic have not been fully articulated.

If the argument we make about the time- and context-dependency of the concept of CR is correct, the relationship between firm profitability and CR cannot be examined in a static context because the CR time dynamic actually changes what is profitable. First, as new norms become accepted practice because they have become institutionalized or legally required, the costs of meeting these standards become shared among competitors, and industry-wide capabilities and institutions are developed which lower the costs associated with certain CR practices. Second, because the playing field becomes level regarding these practices, a competitive advantage in the "market for virtue"⁶ is no longer conferred upon early adopters since the behavior is widespread. Finally, the penalties associated with failing to adopt the CR practice will increase over time as either the behavior becomes a new norm (ratcheting up expectations and making it increasingly costly for laggard firms to fail to comply) or as new regulations force companies to adapt their behavior. As a result, the business case is strengthened for the particular CR behavior. However, as shifting norms and requirements strengthen the business case for a certain CR behavior, the shifting norms and requirements also mean that at some point these very practices are no longer considered to be "socially responsible" and instead are understood as simply the "normal" or required way to do business. Thus, as a certain CR behavior becomes more profitable (or less costly) and normalized, it is no longer considered to be CR. At the same time, firms become subject to pressure to adopt other, more leading-edge CR practices, and these new practices can create new costs, especially for first movers.

no static context
CR responsibility
• changes
what is profitable

behavior becomes a new norm

• costly to fail to comply

↓
have to adapt the behavior

certain behavior becomes more profitable

The debate about the efficacy of voluntary CR programs versus regulations in inducing certain behaviors is also illuminated by viewing CR in a time-dynamic context. As the time dynamic ratchets up expectations regarding corporate behavior, public policies often respond to emerging corporate behavior, rather than the reverse. For example, regulations concerning child labor, civil rights, and other issues followed and were facilitated by the prior

implementation of CR programs. To use a present-day example, many companies voluntarily produce multiple bottom line or sustainability reports to demonstrate their CR, and some are using the Global Reporting Initiative's more rigorous but still voluntary reporting framework to do

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so. However, sustainability or so-called ESG (environmental, social, and governance) reporting is no longer voluntary in, for instance, France, where listed companies have to disclose their practices in these areas. It is reasonable to conclude that the widespread voluntary adoption of social and environmental reporting facilitated the development of the French regulations.

EXHIBIT F p.2

The Logical Trap: What is Corporate Responsibility? And is It Profitable?

In 2008, Martin Wolf of the *Financial Times* spoke on the topic of CR at the Harvard Business School:

The notion of corporate social responsibility is intensely confused. In particular, it mixes up three quite distinct ideas: intelligent operation of a business; charity; and bearing of costly burdens for the benefit of society at large. The first is essential; the second is optional; and the third is impossible, unless those obligations are imposed on competitors.⁷

Embedded in this comment is the logical trap to which CSR discussions often fall prey: If CSR activities are a profitable activity, then they are best described as "intelligent operation of the business" rather than as "responsible" behavior. If CSR activities are not profitable, then they cannot be undertaken voluntarily in a competitive market, and so must be imposed on all competitors using laws or regulations, in which case such activities are no longer "CSR." Wolf concludes that CSR is "intensely confused" because in either case the term "corporate social responsibility" is not a useful construct.

The perspective that we develop in this article is one way out of the logical trap because we argue that there is a middle ground—or time period—in which progressive firms are adopting certain practices that ultimately become either required by law or accepted practice and hence a new norm for doing business. We can move forward on the issues of: what CR is and is not; and whether it is profitable; and the relationship between legal requirements and voluntary activities if we explicitly move from a static "point in time" method of analysis to understanding CR in a more dynamic, time- and context-dependent manner. This approach can help to determine when different types of activity are considered to be part of corporate responsibility—and when they are not. If we are to understand the role of CR in the global corporation, we have to develop a better understanding of a number of dynamic and institutionalization processes that take place over time and place. The static "point in time" analysis is limiting and leads to the common logical trap.

legal
↓
voluntary

new norm
of doing
business

Time and Context Dynamics of CR

corporate Responsibility

The time-dynamic process associated with social change is aptly described in this article's opening quote by Mahatma Gandhi. In describing the reaction of the establishment to social activism, Gandhi clearly sees the temporal element as central: "First they ignore you, then they laugh at you, then they fight you, then you win."⁸

By what mechanisms do widespread changes in corporate behavior occur? This temporal pattern resembles the public issue life cycle.⁹ The general life cycle describes how public issues are put forward by activists (or opinion leaders), which then gain media attention so that the general public becomes aware of them. Such issues can be resolved by being codified or institutionalized¹⁰ into regulations or codes of practice (the legislative outcome) or by

EXHIBIT F p. 3

becoming norms and expectations (a social or industry expectation outcome); or they can fall into a public opinion black hole, possibly to rise again at a future date when new problems arise.¹¹

First They Ignore You: The Role of Early Activists

The first phase of the change process outlined by Gandhi is that "they ignore you." Similarly, as scholar James Post has noted,¹² the initial stage of the evolution of a public issue involves early or pioneering activists seeing a gap between desired and actual practice. During this early stage, little attention is being paid to the issue, at least until the activists begin their agitation, beginning the process of raising awareness about the issue among other early followers.

In this early phase, the notion of CR around an issue is unlikely to be raised because few people other than the ones who raise the flag have been thinking about the issue at all, and corporations can easily ignore demands by a small number of "fringe" activists whose views are not widely shared and who are without power. At this stage, there is little knowledge about the issue, the actors involved in it, or what might be done about it. The "ignore" stage is characterized by general public ignorance or indifference to the issue, and by the corporate response that the "fringe" activists can be safely ignored.

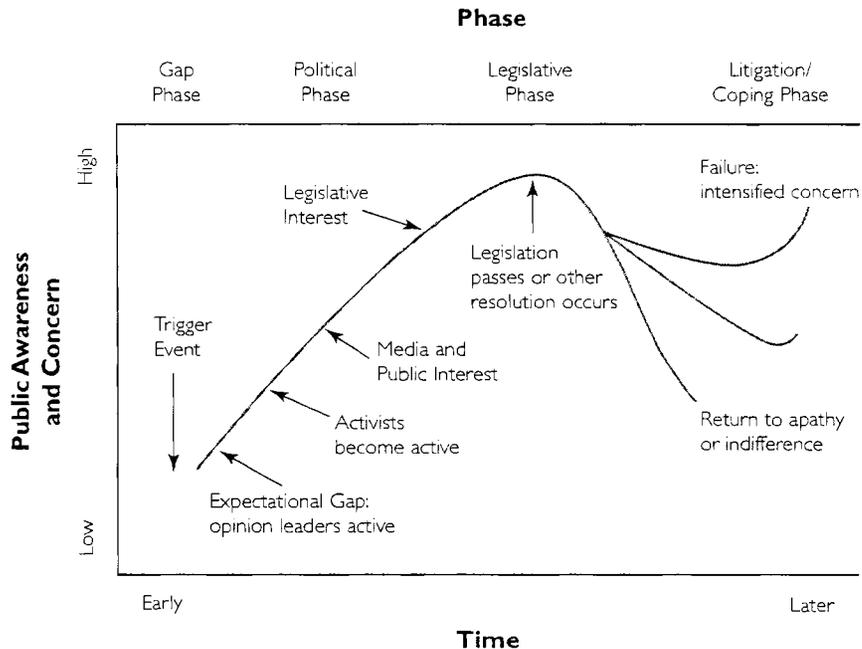
In the late-1980s, for example, activist Jeff Ballinger attempted to raise awareness of labor conditions in Asian factories, but because the "sweatshop" issue was not yet in the public consciousness and because Ballinger alone was not a credible stakeholder, his demands could be safely ignored. Similarly, in the 1960s, a small number of religiously affiliated shareholders and others began to raise the issue of corporate involvement in South Africa, long before apartheid was a well-known public issue. They too were initially ignored. A decade later, early gay rights activists who raised the issue of domestic partnership employee benefits were also ignored. In terms of the issue life cycle (see Figure 1), this stage represents a starting point, where ignorance begins to shift when a trigger event happens that draws public attention to the issue, moving it into the next phase.

Then They Laugh at You

The trigger event¹³ (or institutional "jolt")¹⁴ is an event that draws public attention to a given issue, thereby activating the issue life cycle. (We would note that not all issues follow the same trajectory, nor are all, as Tombari pointed out, resolved through the public policy or legislative process implied by the public issue life cycle.)¹⁵ Examples of trigger events include Union Carbide's 1984 industrial accident in Bhopal, India, and Royal Dutch Shell's efforts to dispose of its Brent Spar oil rig in the North Sea in 1995. Similarly, in the mid-1990s, the sweatshop issue generated a number of journalistic exposés into working conditions in Asian factories; while in the early 1980s, violence in South Africa and

EXHIBIT F p.4

FIGURE 1. Public Issue Life Cycle



Source: Adapted from J.E. Post, *Corporate Behavior and Social Change* (Reston, VA: Reston, 1978); H.A. Tombari, *Business and Society: Strategies for the Environment and Public Policy* (New York, NY: Dryden Press, 1984).

student activism related to corporate involvement in the country began to garner public attention.

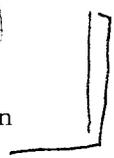
The trigger can also be something more subtle and less spectacular that brings an issue onto the table for discussion, such as has happened for some companies with respect to human rights after they signed the UN Global Compact and found that new issues and expectations are associated with signing on.¹⁶ Note that in all of these situations, the trigger event begins to raise public awareness and change expectations for companies (see Figure 1). As the issue attracts increasing attention, "ignore" is no longer a viable corporate response.

In this phase, activists begin to attract the support of more "mainstream" citizens and organizations, and these voices become too loud to ignore. These public and stakeholder concerns highlight the fact that there is a gap between ideal practice and what is actually happening.¹⁷ Activists may be "laughed at" in the sense of not being taken seriously. The issue simply may not have been on the corporate agenda; or if it has, it has been given low priority. Thus, companies' leaders may dismiss these early efforts as insignificant or unimportant during this phase, for there are few institutional processes that bring these issues to the fore either within companies or externally.¹⁸

EXHIBIT F p. 5

For example, in the early 1980s, most corporations with investments in South Africa initially rejected divestment as a feasible response.¹⁹ Similarly, Nike's founder and then CEO Phil Knight's initial response to the sweatshop charges was dismissive of the importance of supplier labor issues for Nike. The notion that large multinationals could be (or should be) responsible for the working conditions in their suppliers' factories was "laughable," because it was so at odds with the accepted corporate practice of arm's-length supply chain practices.²⁰

supplier



As activism continues, the media tends to take more notice, at least until the public becomes "saturated" with the issue,²¹ raising it in public awareness and increasing the likelihood that institutional processes will be put in place that demand change (see Figure 1). For example, the number of articles in major newspapers on the subject of "sweatshops" was 10 times higher in 1996 than it had been in 1990,²² while references to "apartheid" similarly increased elevenfold from 1980 to 1985.²³ Thus, the issue is propelled into the next phase, which is where issues of corporate responsibility come to prominence.

Then They Fight You

As Figure 1 suggests, issues evolve and gain in public attention until they are resolved, displaced, or public attention wanes or reaches a saturation point and the issue "dies" as a current public topic.²⁴ It is during this increasing public awareness phase that attention is drawn to an issue, and when corporate responsibility for the issue is likely to become a prominent topic for discussion. As Lamertz and his colleagues suggest, key actors play important roles in actively "constructing" or framing the issue in ways that point attention in certain directions, e.g., towards corporations as actors with responsibility for improving the situation.²⁵

The process during this phase is one of negotiation for the dominant framing,²⁶ the meaning of the issue as perceived by different actors,²⁷ or the appropriate paradigm with assumptions that will later guide action.²⁸ Framing is an important part of the process of institutionalization, as institutional theorists argue, because ideas facilitate or constrain the policy and other behavioral choices that are later made by providing rationales for action (or inaction).²⁹ Greenwood and his colleagues characterize this interactive framing process as "theorization,"³⁰ a process that helps explain the causes and effects, as well as why an issue has taken the shape that it has.

framing



For example, in the 1950s South, it was unheard of (and in some states illegal) for whites and blacks to work side by side in textile factories; 40 years later, the idea that a global apparel company could take responsibility for conditions in its supplier factories was also at first unheard of and thought to be ridiculous ("then they laugh at you"). In both of these cases, companies were initially hostile to change and fought against supplier codes of conduct in the 1980s and workplace integration in the 1960s by saying that these practices were unworkable and inconsistent with responsible business practice.³¹ Factory

2 ridiculous

EXHIBIT F p. 6

owners in 18th century Britain said much the same thing about child labor restrictions.

In the "then they fight you" stage, corporations often argue that activists "don't understand the business" and that adopting the requested behavior would lead to the decline of firms and industries. For example, one common response by apparel firms to the demand for factory disclosure was that disclosing factory names and addresses would not only be practically impossible, but also tantamount to giving away trade secrets.³² Southern textile factory owners until the 1960s similarly argued that integration was unworkable from a business perspective.

Substantive debate about corporate responsibility begins during this negotiation process, because activists and corporations are using selected framings and paradigms to shape proposals for action. Of course, the fight stage is reached because the activists have had at least some success in framing the issue in the earlier stages and because there were some pioneering companies willing to take steps toward greater responsibility earlier than others (as Levi Strauss did with respect to its supplier code of conduct in the early 1990s, as well as with its early adoption of an integrated workforce).

The "then they fight you" stage is characterized by debate and compromise. For example, in response to demands from religious shareholders, civil rights groups, and student activists to withdraw from the country, U.S. banks operating in early-1980s South Africa at first responded by adapting their lending practices so as to more clearly benefit the black population, while other firms refused to divest but did agree to comply with the Sullivan principles (and, of course, some firms refused to act on the issue at all).³³ Similarly, in response to demands for monitoring of supplier factories in the late-1990s, U.S. apparel firms first responded by employing consulting firms to monitor labor conditions in the factories, or by assigning their own employees to the task. A third illustrative example is the migration of many corporations from the Global Climate Coalition (which had a more "business as usual" or "denial" position) to the Pew Center on Global Climate Change (which accepted most global warming studies and argued for corporate involvement in solutions).³⁴

While each of these responses was indeed a compromise from the prior practice of "ignore," activists continued to fight because they did not believe that the corporate response had been sufficient. At any point in time during the fight, different companies will occupy different points on the CR spectrum with regard to particular issues, and the specific topics of the most significant fights will vary across industries and firms. Many examples for this dynamic are evident in the area of sustainability. For instance, during the early 2000s, concerns were increasingly raised about the environmental impacts of electronic waste. The early responses to this issue by electronics companies typically involved corporate recycling programs while subsequent responses included proactive "life cycle engineering" design (which attempted to minimize the lifetime environmental impact of the product's manufacture, use, and disposal). Today, a leading-edge response to the issue is to manage these impacts from the perspective

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of the entire supply chain. However, some companies (e.g., Hewlett-Packard) took the early lead on this issue by offering free pick-up and recycling of discarded equipment, the construction of their own recycling centers, and auditing suppliers for environmental impact. Other companies (e.g., Acer) were "followers" and had a more limited initial response. For example, Acer even today simply provides information to consumers about how they can recycle equipment themselves.³⁵

Similarly, several of the largest apparel companies (e.g., Nike and GAP) had by the early 2000s acquiesced to activist demands for independent monitoring and factory disclosure; and, because of the dynamics of the "market for virtue,"³⁶ these firms are further along the spectrum than many other firms. For example, for Nike, the fight is finished for "middle ground" practices such as factory disclosure, but the fight continues on the specifics of long-term supplier contracts or living wage provisions. For other firms, the fight over factory disclosure is still ongoing. Firms whose only response to global supply chain issues is to have a code of conduct are considered "behind the curve" today (e.g., a KPMG report finds that 92% of the world's largest 250 corporations now have codes of conduct in place)³⁷ but would have been considered "responsible" in the mid-1990s. In sum, different companies are resistant over different issues at a single point in time. Put another way, the fight stage reveals a moving CR target, and different companies move at different speeds towards these targets.

behind the curve
resistance

All of these actions, however, are responses to an emerging infrastructure around corporate responsibility. Notably, it is in this phase of the emergence of an issue that conversations about corporate responsibility most dominate, since the standards and expectations themselves are changing and company practices are also in flux. Importantly, it is in this phase that early movers can take strategic initiatives that distinguish themselves from other companies.

change of practice

The time dynamic also illuminates the often complex relationship between corporations and their critics, particularly NGOs. Argenti has categorized NGOs by the "degree of intended disruption"³⁸ with some NGOs utilizing disruptive, confrontational, and antagonistic approaches, while others use a more collaborative and cooperative approach. While this classification is useful in some settings, it is also the case that confrontation ("then they fight you") over time often evolves into collaboration as the issue reaches the next stage in the cycle. For example, on issues such as climate change and factory monitoring, the relationship between "progressive" companies and various NGOs has recently evolved from confrontational to collaborative.

disruptive

Then You Win

Advocates for a certain CR practice may ultimately "win" in one of two ways. First, the behavior may spread and become common or accepted practice, even though it is not legally required. Second, the new behavior may become compulsory through a change in laws or regulations. Often, a behavior first becomes accepted practice, and then become legally required. Of course, not

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all issues survive this process to the win stage either because they never attract sufficient attention (perhaps because there is no significant trigger) or because the corporations instead win in the fight stage. In addition, the stages might be very brief or seemingly concurrent (e.g., the phthalates issue, see below) or they might be decades long (e.g., child labor).

A critical point, however, is that once the win stage is reached, the behavior no longer "counts" as CR. Interestingly, once a responsible behavior is sufficiently widespread—either because it is legally required or because it is widely accepted practice—it is no longer distinguished as responsible. As DiMaggio and Powell write in another context, "As an innovation spreads, a threshold is reached beyond which adoption provides legitimacy rather than performance."³⁹

When a CR practice becomes either the norm or a legal requirement, it provides legitimacy but no longer distinguishes the firm as "responsible."

Widespread Voluntary Adoption of CR Practices

Given the general "ratcheting" dynamic we have described, the processes associated with institutionalization described by DiMaggio and Powell help to explain how what was once considered to be deliberately responsible corporate practice becomes expected or normal practice in the "then you win" phase.⁴⁰

- They also illustrate why the definition of responsible corporate practice shifts over time. DiMaggio and Powell argued that voluntary changes (and convergence) in behavior and practices occur through *mimetic* processes (imitation drives change) and *normative* processes (professionalization drives change).

In mimesis, companies adopt the practices of other companies in what Peters and Pierre called a "contagion."⁴¹ This contagion is often the result of companies wishing to adopt best practices or to emulate the behavior of leaders. For example, membership in the UN Global Compact (an agreement by signatory firms to uphold certain standards of CR behavior) grew from 40 companies in 2000 to more than 7,700 in 2011.⁴² At a recent "leading companies retreat" for the UN Global Compact, companies admitted that they initially had signed on because they wanted to gain the advantage that could potentially come from being in the company of the leaders, which was considered important both from a learning and reputational perspective.⁴³ Other recent examples of mimetic pressures are the adoption of the EcoIndex tool for measuring lifetime environmental impact in apparel and shoe production, which 100 "leading" companies are embracing,⁴⁴ and the extension of same-sex benefits and related family policies. According to the Human Rights Campaign, the number of large companies with highly progressive policies towards lesbians and gays increased from 13 in 2002 to 305 in 2010, with companies in various industries often "following the leader."⁴⁵

Normative pressures also induce institutionalization processes. Normative pressures foster the spread of practices through the professionalization of corporate activities, which in the case of CR typically occurs as professional and trade associations emerge around a CR issue. As these associations attract increasing membership, practices spread among members. For example, during

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the past 15 years, a professional network of associations and conferences has emerged around the subject of "life cycle engineering" designed to reduce the environmental impact of product manufacture, use, and disposal. Standards and organizations such as ISO, the Fair Labor Association, and the Global Reporting Initiative facilitate communication across firms and the adoption of common practices. While first movers on a given CR issue do not have the benefit of these professional networks, as these networks emerge, norms and standards converge because of the interaction of professionals.

Of course, as DiMaggio and Powell note, it is common for mimetic and normative processes to be at work simultaneously. For example, the adoption of corporate responsibility reporting has aspects of imitation as well as a normative component. Early adopters of these reports—variously called triple bottom line (for environmental, social, and economic), sustainability, or ESG (for environmental, social, and governance) reports—enjoyed "credit" for corporate responsibility when they published their reports. They were looked to as corporate responsibility models by the NGOs demanding such reporting and by other CR activists, who then sought such reports from other companies. By the time of the 2008 KPMG study, however, nearly 80% of the global 250 issued separate reports, another 4% integrated this material into their annual reports, and 45% of the largest companies in the 22 countries studied produced such a report. This diffusion of practice was induced by imitation (mimetic process) but was facilitated by the emergence of a variety of professional organizations and networks such as the Global Reporting Initiative (normative processes).

Changes in Laws and Regulations

A second mechanism by which a new CR behavior becomes widely adopted—the coercive process⁴⁶—is typically found in the laws and regulatory actions taken by states. In 1975, Shanklin pointed out that:

A plethora of laws and regulations, at all levels of government, has put many of the major corporate social responsibilities beyond voluntary action. Standards set for pollution control, equal opportunity employment, and product safety are notable examples. Chief executives generally have reacted to legal requirements by institutionalizing the programs needed to ensure corporate compliance, thereby making societal considerations unavoidable inputs into managerial decision making.⁴⁷

Consider child labor as an example of how what is considered responsible shifts to what is required as a result of laws, regulations, and rulings that are both time and context dependent. In the U.S. in the late 1800s, there was considerable public attention to the issue of child labor, which resulted in the formation of the National Consumers' League in 1899. By 1912, a Children's Bureau had been formed in the Department of Commerce and the Department of Labor had been formed, both of which dealt with employment issues. After several failed efforts, the Walsh-Healey Public Contracts Act was passed in 1936, and it provided for a minimum wage and prohibited employment of youth under 16 on federal contracts. In 1938, the Fair Labor Standards Act passed,

Dept of Commerce
Dept. of Labor

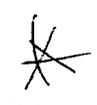
EXHIBIT # p. 10

which provided for minimum age and wage restrictions, occupational and hours of work restrictions, prohibited certain occupations for youth (liquor and lottery sales), and required children to have work permits.⁴⁸ During the long history of this issue, it became increasingly common for "responsible" companies to address the problem voluntarily. Once legislation was in place, however, companies that had been progressive in not employing children and had been considered to be more responsible than their counterparts were now simply complying with the law, at least in the United States.

A variety of other examples highlight the dynamic by which practices that are considered progressive and responsible lose this status as they became legally required. While firms that provided benefits to domestic partners in the 1990s were considered to be "responsible," by 2010, five states had legalized same-sex marriage and the extension of these benefits, therefore became legally mandated in these states. Similarly, in the case of apartheid, the growing number of progressive firms who chose to divest were no longer distinguished by their responsible behavior once divestment became more common. In the realm of sustainability, the EU recently introduced regulations directed at the recycling of electronics waste that will compel all firms to follow practices that had been adopted only by some. The state of California now has similar regulations, although California's law has less scope than the EU's directive. Among the most significant examples of this dynamic in the 20th century is the Civil Rights Act, which rapidly resulted in workplace integration and meant that the progressive firms that had voluntarily integrated no longer held a special position.

Whether the "then you win" stage is reached because a voluntary CR behavior becomes widespread or because it becomes compulsory, it is common for corporations to communicate that the new behavior was "a good idea after all," even though the firms had initially raised objections during the fight stage. For example, after Nike and Levi Strauss agreed in 2005 to factory disclosure following their earlier objections, the companies were unable to identify negative business effects from the change, and instead they pointed to multiple "business case" benefits.⁴⁹ Similarly, two generations after the Civil Rights Act was passed, virtually all public companies communicate the "business case" case related to racial diversity and inclusiveness.

Importantly, once a CR behavior becomes common practice or legally required, it loses its "status" as CR and becomes simply the accepted (or required) way to do business. This temporal change in our understanding of what constitutes CR is significant for a number of debates. Of course, there are cases where legislation has yet to pass, despite considerable activist pressure. One notable example in the U.S. is that of climate change, for which Congress has yet to enact significant legislation. Despite that legislative gap, however, many companies, including significant players in the chemical industry such as DuPont and Dow in the U.S. have voluntarily undertaken major sustainability initiative.



Civil Rights Act
"inclusiveness"

EXHIBIT F p. 11 legislative gap

Discussion: Re-Envisioning Corporate Responsibility within the Time-Context Dynamic

What is Corporate Responsibility?

We have argued that there is a combination of coercive, mimetic, and normative pressures in the institutionalization process that moves an issue from being a centerpiece of corporate responsibility to being an accepted and standard operating procedure that is simply how business is done. The specific pressures are both time and context dependent. For example, early on, it was acceptable for U.S. domestic law to institutionalize norms and standards around child labor because most business was done domestically. When the issue reared its head again in the late 1990s, however, it took on a global scope because the world had changed to a multinational context in which global supply chains had become standard practice. As the issue life cycle suggests, the rise in public awareness in part drove the processes of institutionalization that have resulted in far greater attention to child labor by MNCs.

A more recent example relates to the use of phthalates (plastic softeners) in children's products. Following research in the early 2000s that suggested that these substances were harmful, activists pressured companies to cease using the compounds. Regulatory bodies (the Consumer Product Safety Commission), industry associations, and companies first ignored the protests and then argued that the substances were safe ("then they laugh at you"). However, the activists began to have some success at the state level, as Washington, California, and several other states restricted the sale of children's products containing phthalates. Predictably, the companies and industry associations fought these initiatives ("they then fight you"). However, at the same time, several companies, including Toys 'R Us, voluntarily withdrew the products from their shelves, a move best understood as "CR." Following these voluntary corporate initiatives, Congress finally acted to ban several of the substances from children's products,⁵⁰ and the issue life cycle was complete.

Knowing that this process of institutionalization is time and context dependent helps us come to a new understanding of corporate responsibility: *Corporate responsibility, viewed as a temporal process, represents the ongoing tension gap between societal expectations expressed legally or through norms and company behavior.*⁵¹

Of course, our approach also suggests that as one issue completes its life cycle, another emerges. For example, labor conditions in global apparel supply chains have been a topic of interest for approximately 20 years. However, under the broad heading of "labor conditions," the dominant CR issue has changed during this period. For example, in 2008, a prominent CR issue was the extent to which factory monitoring reports should be made public. However, in the late-1990s the prominent fight issue was whether there would be supplier codes of conduct at all. By the mid-1990s, however, many firms had adopted codes of conduct (at least on paper) and attention turned to other CR behaviors.

Today, simply having a code of conduct in place no longer "counts" as CR, and the more progressive firms are designing long-term, collaborative

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(rather than compliance-based) labor relations programs with their suppliers and with NGOs. Discussions both in Lim and Philips and in Frenkel and Scott suggest that the code of conduct compliance model was a baseline model from which the more encompassing relational and collaborative approaches that now count as CR developed.³² The fights concerning labor issues continue, but the topic changes. As the "then you win" stage is reached on some issues and certain behaviors become simply "doing business," pressures emerge for new CR behaviors.

A similar dynamic is at work with sustainability reporting. While regulations regarding environmental reporting have been increasing for decades, during the late-1990s and early-2000s, voluntary sustainability reports became common. At the leading edge, however, some companies are now reporting emissions and other environmental data not only for their own operations, but for that of their supply chains as well. While a standard "sustainability report" might no longer "count" as CR, because the "then you win" stage has been reached, comprehensive reports that include supply chain impacts have become the new standard for CR in sustainability reporting.

Is CR Profitable?

Our analysis also offers insight into the "Is CR profitable?" debate. The reality of globalization means that especially for multinational corporations, the societal expectations that they face are increasingly those of global standardization with expectations defined by multiple external stakeholders. The evolution of a CR-related infrastructure that pressures companies for new kinds of action (e.g., socially responsible investment organizations, peer associations, and social activists) is part of the process of institutionalization that changes what corporate responsibility is considered to be. It also alters what is profitable, since whatever costs are involved in meeting new expectations, standards, or norms become incorporated into the business model, especially as more companies adopt them and initial investments in this infrastructure begin to pay dividends.

business model

For example, during the late-1990s, Social Accountability International (SAI) put forward its SA 8000 labor standards and began training specialists to go into factories to ensure that conditions were acceptable. Therefore, this early investment in the development of codes of conduct and monitoring organizations and capabilities means that infrastructure and models are now in place. Today, a new firm in the industry benefits from these "templates" and faces lower costs in implementing basic codes and monitoring activities than did firms in the industry a decade ago, since there is much more knowledge and precedent to follow. In addition, shifting public expectations and the resulting reputational and "name and shame" costs make it increasingly costly not to comply with the new norms.

precedent to follow.

As a result, the business case for adopting a code of conduct strengthens, and this *particular* CR behavior becomes more profitable (or less costly) over time. This does not allow us to conclude, however, either that CR is profitable or that CR is becoming more profitable over time. Indeed, because the defini-

increases CR over time - less costly

EXHIBIT F p. 13

tion of CR shifts over time, as one behavior (such as domestic partner benefits or codes of conduct) becomes normalized and relatively less costly, other CR behaviors (such as designated supplier programs or life cycle engineering) enter the issue life cycle and demand (costly) corporate responses or resources. The "ratcheting up" of societal demands thus results in higher costs from these new CR demands even as the costs associated with meeting the "old" demands are falling. Of course, this analysis suggests that early movers incur more costs than do late movers in adopting progressive CR strategies, raising the legitimate question of why any company would do so. We would argue that the role of reputation and corporate brand management today—along with the transparency around corporate activities provided by the internet and the attention of activists, NGOs, and other stakeholders—makes taking the risks of being a first mover in CR worthwhile. In other words, in the language of DiMaggio and Powell, before an innovation becomes widespread it may confer "performance" on early movers, while after it is widespread it confers only "legitimacy."

This discussion suggests that rather than continuing to ask whether corporate responsibility is profitable, we should instead begin to examine how the time dynamic we have described actually *changes* what is profitable. The time dynamic context suggests that contradictory forces are at play, which may explain a recent meta-study that finds a neutral relationship.⁵³ Some CR behaviors become less costly (and indeed become normal business practices rather than CR) over time, while at the same time demands for newer more progressive behaviors suggest higher costs. This complex time dynamic may explain the conflicting results of many static empirical examinations of the link between profits and CR.

The notion that CR behavior changes what is profitable behavior presents an interesting extension of Vogel's "market for virtue" analysis.⁵⁴ Consider a particular CR behavior, such as, for example, independent factory monitoring or the extension of same sex partner benefits to employees. Initially, there is minimal supply or demand for the behavior in the "ignore" phase. If trigger events, shifting public expectations and awareness, and other exogenous pressures move this behavior along the issue life cycle to either a mandated or normative practice, the demand for this behavior will then increase at each price. At the same time, the costs associated with adopting the new behavior are falling as the related infrastructure is put in place and competitors adopt the CR behavior as well. This decrease in costs results in an increase in the supply of the CR behavior. The result, in moving through time from the "ignore" to "win" stage, is widespread adoption driven by outward demand and supply shifts in the market for virtue. This is consistent with interview data suggesting that apparel companies perceived lower costs, lower risks, and greater benefits over time as discussions regarding their CR practices related to labor issues continued.⁵⁵ Similar dynamics are at work for all manner of CR behaviors, so the life cycle framework illuminates the time dynamic of the market for virtue.

EXHIBIT F p. 14

Laws or Corporate Responsibility?

The time and context dynamic approach speaks also to the debate regarding the role of laws and regulations vis-à-vis voluntary CR activities. Many critics of CR say that if society wants firms to behave a certain way, then we should have laws in place so that the rules apply to all firms—this point is embedded in Martin Wolf’s comment, as well as in Milton Friedman’s classic critique of CR (see also Karnani’s article in this issue). More recently and from a different perspective, Robert Reich has argued that society should enforce rules and laws to induce responsible behavior instead of trying to coax firms voluntarily to adopt certain practices.⁵⁶

This debate has been constrained by the static “point in time” analysis often implicit in these arguments. Laws and regulations as well as norms of behavior are developed in a complex, time-dynamic manner that references both institutionalization processes and the issue life cycle. The typical early activist will not be able to get laws passed because of the opposition of the establishment, however defined. The establishment has to be brought on board—or at least some members have to be brought on board—in order for any type of change in public policy to occur. This “bringing on board” process requires raising public awareness as well as the development of coercive, mimetic, and normative processes that create pressure for change.

* point in time

“be brought on board”

Some of this change will involve legislation, while new normalized practices (such as multiple bottom-line reporting) will evolve because this “bringing on board” is exactly what CR, seen as a movement, is. While Reich (and Karnani, in this issue) might argue that if society wants CR we must pass relevant laws,⁵⁷ in fact, in actual practice laws often evolve from CR standards. In some respects, it is the buy-in from first movers that enables legislation to ultimately be passed, if the issue takes full course in the public policy process, especially because companies incurring extra costs to adopt progressive practices have an incentive to have these costs applied to their competitors.

In many cases throughout industrial history, legislation has been facilitated by CR. In early industrial Britain, child labor restrictions followed from the reports of factory owners who had successfully instituted their own CR policies regarding child labor;⁵⁸ and in the early-2000s, labor and environmental clauses began to be inserted into U.S. trade agreements, following the “institutionalization” of the corporate involvement in labor issues in their supply chains. The phthalates example above reflects the same dynamic. Legislation and regulations do not originate in a vacuum, but are instead the result of the organic and time-dynamic process that we have described. Legislation may be considered to be not only a competing alternative to CR at a point in time, but may instead be understood as another outcome in the “then you win” phase, which typically follows the CR stage in time.

legislation has been facilitated by CR

(education) ↓ backwards

No

responsibility

EXHIBIT F p.15

Summary and Conclusion

Mahatma Gandhi's quote describing the time dynamic of social activism applies well to CR. Examining CR in a time- and context-dependent setting illuminates several historically intractable issues.

First, it is common for CR activities to shift over time from being unheard of or radical to responsible and then to expected or required. When Levi Strauss first introduced a code of conduct for its overseas suppliers in 1991, the practice was unheard of, and Levi's and other early adopters were considered to be "responsible" corporate citizens. Today, however, supplier codes of conduct are standard and expected practice in virtually all industries with global supply chains, and codes of conduct are considered not CR but simply normal business practice. We have observed the same dynamic with triple bottom line reporting and domestic partner employee benefits. (What is considered to be "CR" shifts over time and is best understood as a "mid-point" in the issue life cycle.)

Second, the time dynamic illuminates the discussion regarding whether CR is profitable. Over time, CR practices *change* what is profitable—through the effect of shifting public expectations, through the development of "public goods," through institutions that lower the costs of adopting certain practices, and by leveling the competitive landscape. CR behavior by some firms in earlier stages lowers the costs of the behavior for later adopters, while at the same time demands for new CR behaviors results in higher costs for new early movers. The question "Is CR profitable?" obscures this time dynamic.

Third, the time dynamic shifts the debate of the relative efficacy of legal versus voluntary standards; laws and regulations are often the end point of the issue life cycle. Widespread adoption of a certain behavior may also be "a win" or end point, or it can precede a regulatory response. Laws and regulations emerge not in a vacuum, but often after some degree of "buy in" by firms as CR practices become an expected and standardized part of the societal ethos.

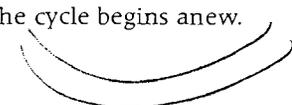
Ironically, each of these three issues raised by the time dynamic leads both independently and collectively to the demise of CR programs, at least in their labeling. As particular CR practices move over time along the issue life cycle the demand and the supply of the behavior increases as it becomes: expected and normal; less costly (in relative and absolute terms); and sometimes legally required. Once this "win" stage has been reached, the practice no longer counts as corporate responsibility, even though the ultimate goals of the early struggle—be it codes of conduct, triple bottom line reporting, or workplace integration—have been achieved. At the same time, however, triggers for other issues and behaviors occur and the cycle begins anew.

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EXHIBIT F p.16

public
"good"
CR behavior
- early stage



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EXHIBIT F p. 18

Ten Principles of Personal Leadership

At Starbucks there's a little green booklet, called *The Green Apron Book*, which sets down the guiding principles for all the people who work at the company.

It's a simple book, barely a booklet, but no one ever complains about its simplicity. The guidelines are merely reminders of what we stand for in our Starbucks stores—what we *can* do, not what we must or can't do.

As we grew from a small to a much larger group of committed individuals, *The Green Apron Book* was a way to capture and write down the things that mattered to us about our mission and the kind of company we were creating. In the same spirit, the principles of personal leadership I've learned and taught and present in this book are principles that *everyone* can embrace. I've used them as touchstones to keep me honest and to keep me clear.

They've also withstood the test kitchen of my leadership at Starbucks. The principles are literally brewed into the way we work, make decisions, confront problems, care about one another, persevere, and create opportunities for our future. This

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book, these principles, are trusted markers that can set your course in the turbulent sea of business, commerce, and life.

I've used these principles as I've coached hundreds of leaders at every level. Not every principle will be equally meaningful to you or equally challenging for you to remember and practice. But I can guarantee you that you won't go wrong if you use these ten principles as a guiding force in leading yourself and, if it's your goal, in leading others.

1. KNOW WHO YOU ARE: *Wear One Hat*

Our success is directly related to our clarity and honesty about who we are, who we're *not*, where we want to go, and how we're going to get there. When organizations are clear about their values, purpose, and goals, they find the energy and passion to do great things.

2. KNOW WHY YOU'RE HERE: *Do It Because It's Right, Not Because It's Right for Your Résumé*

The path to success comes from doing things for the right reasons. You can't succeed if you don't know what you're trying to accomplish and without everyone being aligned with the goal. Look for purpose and passion in yourself and the people you lead. If they're not there, do something.

3. THINK INDEPENDENTLY: *The Person Who Sweeps the Floor Should Choose the Broom*

People are not "assets," they are human beings who have the capacity to achieve results beyond what is thought possible. We need to get rid of rules—real and imagined—and encourage the independent thinking of others and ourselves.

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4. BUILD TRUST: *Care, Like You Really Mean It*

Caring is not a sign of weakness but rather a sign of strength, and it can't be faked—within an organization, with the people we serve, or in our local or global communities. Without trust and caring, we'll never know what could have been possible. Without freedom from fear, we can't dream, and we can't reach our potential.

5. LISTEN FOR THE TRUTH: *The Walls Talk*

Put the time into listening, even to what's not said, and amazing results will follow. You'll know what your customers want, you'll know why the passion is missing from your organization, and you'll learn solutions to problems that have been sitting there waiting to be picked.

6. BE ACCOUNTABLE: *Only the Truth Sounds Like the Truth*

No secrets, no lies of omission, no hedging and dodging. Take responsibility and say what needs to be said, with care and respect.

7. TAKE ACTION: *Think Like a Person of Action, and Act Like a Person of Thought*

Find the sweet spot of passion, purpose, and persistence. "It's all about the people" isn't an idea, it's an action. Feel, do, think. Find the balance, but act.

8. FACE CHALLENGE: *We Are Human Beings First*

Use all the principles to guide you during the hardest times. If the challenge is too big, if you find yourself stuck, take

Introduction

smaller bites. But remember to put people first, and you'll find the guidance you need.

9. PRACTICE LEADERSHIP: *The Big Noise and the Still, Small Voice*

Leading can be the noisy "I'm here!" kind of thing. But don't ever forget that leaders are just ordinary human beings. Don't let the noise crowd out the truth. Listen to your still, small voice. Let quiet be your guide.

10. DARE TO DREAM: *Say Yes, the Most Powerful Word in the World*

Big dreams mean big goals, big hopes, big joys. Say yes, and enjoy all that you are doing, and help others to do the same.

Valuable Reminders

As people who traveled through my office over the years know, my way of reminding myself about this journey of true self and purpose was to put words of wisdom, which I used as guardrails for my journey, on my walls.

When I heard a piece of advice, read something that struck me as a blinding flash of insight, I wrote it down, used it as a reference point, and quoted its lessons as I taught and mentored others. These weren't quotes that became slogans in company hallways and restrooms. These were sometimes direct and sometimes enigmatic words of wisdom that became a launching pad for many positive and difficult conversations I had with people and became part of the institutional memory for the people who make up the culture of Starbucks.

EXHIBIT F p.22

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IT'S NOT ABOUT THE COFFEE

Leadership Principles
from a Life at Starbucks



HOWARD BEHAR

Former President, Starbucks International

with Janet Goldstein

Foreword by HOWARD SCHULTZ

Starbucks Founder and Chairman



DESM

EXHIBIT F p. 23

Ethical Determinants for Generations X and Y

David Boyd

ABSTRACT. The present study examines student perception of protagonist behavior in three case vignettes. One demographic group consists of professionally employed MBA students who show characteristics of Generation X. The second cohort consists of Generation Y business undergraduates. Differences emerge between the groups. Even when they propose similar action, their respective rationale differs. Generation Xers show themselves to be astute pragmatists whose focus is on self rather than society. Yet the younger cohort, in its quest to find fulfillment, may give short shrift to some seasoned tenets of corporate conduct, including organizational mission, organizational politics, and organizational loyalty.

KEY WORDS: generations X and Y, student ethical dilemmas, workplace values clarification

Research avers that MBA's cheat more than other graduate students. Likewise undergraduate business students allegedly cheat more than their nonbusiness counterparts (McCabe et al., 2006). Such studies surmise that these students are simply emulating business practices. If such behavior becomes part of their habituated repertoire, they may some day join the ranks of those reviled for defiling their calling. Since MBA programs are seen as a passport to Wall Street, business schools must now endure guilt by association.

Reacting with defensive gusto to this professional degradation, Harvard Business School students recently waved banners heralding their "MBA Oath." They promised to eschew pursuit of their "own narrow ambitions" at the expense of others (Wayne, 2009). Across the land students move to recast the MBA as more than a speedway to surfeit. They willingly make public vows analogous to the

Hippocratic Oath of aspiring physicians. Schools are themselves also moving to the ethical fore. Over 55 institutions are participating in a Yale School of Management curricular pilot that grounds workplace behavior in a value-based framework (Sorkin, 2009).

While such students eschew Madoff-like machinations, do they show regard for the subtle nuance of ethics (Wood et al., 1988)? For many students, the folly of hedge fund managers is all too apparent, yet at the same time it is remote from the purview of their daily lives. As long as investors are making money and CEOs are staying out of jail, is stewardship peripheral rather than pivotal? In their personal lives, do students remain ethical agnostics whose mindset is denominated in dollars (Boyd and Yilmaz, 2007)? Avowing legality falls short of adopting ethics. Even when students act upon ethical premises, their value drivers may be generationally distinctive. Ethical notions evolve through time and espoused precepts can vary by age cohort. Demographic differences in attitude can result in customized definitions of appropriate conduct.

The observations in this article are culled from the iterative use of case vignettes in a classroom setting over the past 5 years. These vignettes are instructive since they depict actual student encounters with an ethical dilemma. By grounding an event in student-based experience, vignettes create a relevant context for audience discussion.

While such incidents lack the high drama associated with corporate titans, their very ambiguity provides fodder for values clarification. Three sample caselets are profiled in this article. They offer insight into the disparate mindsets of two student segments – Generation X MBA students and Generation Y undergraduate business students.

EXHIBIT G p.1

#1 – Socially sanctioned subterfuge

Alice is an undergraduate business student who has just returned from South America where she toured local villages near some ancient ruins. As she traveled through the countryside, she often remarked on how poor the villagers were and how many of them depended on the tourist trade to eke out a living. The destitute nature of the children was particularly difficult to see.

Some locals, including the children, had become quite adventurous in their schemes to profit from the wealth of their foreign visitors. When returning customer change after a purchase, these locals commonly dispensed counterfeit money. This region of the country was awash with such counterfeit currency but not all tourists were savvy enough to spot it.

Toward the end of her trip, Alice became privy to the extent of the problem. After one rather large purchase, she deliberately kept the counterfeit change rather than making a fuss about it. She proceeded on her way and turned the balance over to the first indigent-looking youngster that she encountered. The ensuing smile from the recipient conveyed his gratitude; the slight curl of his lip further indicated that he knew what his donor was doing. She did not want the money because she knew that it was technically worthless; he, however, could make use of it in an exchange transaction with another tourist who was less shrewd and wary.

Among the graduates, there is no approbation of the protagonist's conduct. By engaging in line extension, Alice chooses to be part of the problem. Another tourist will receive the counterfeit money down the road. Alice thus legitimizes the child's behavior. In elongating the deception, she tacitly endorses the scheme. She becomes a link in the chain of complicity. Might her response be tantamount to swindling an unsuspecting tourist herself? At the very least, she is continuing the cycle of poor choices. A more appropriate gesture would be to give the child some tangible item such as a loaf of bread. Ideally, Alice would have confronted the store owner in the first place.

Undergraduates, in contrast, filter perception through a distributive lens. Are resources fairly allocated among the respective parties? American tourists tend to be wealthy while the indigenous population tends to be indigent. It is time to reprise

Robin Hood. Imbued with a social conscience, the younger group inclines toward activism. Some of the more strident students brand the case protagonist a minimalist. They see her display of humanitarian concern as nothing more than perfunctory politesse – a feel-good gesture that requires negligible effort and outlay. The step taken is modest and skirts any attempt at problem resolution.

Undergraduate reaction includes some sense of national obligation as well. To the undergraduates, the world stage is more important than dyadic exchange. Country concerns supersede the sanctity of individual transaction. For a distribution criterion, these students opt for need rather than equity. When they discern scarcity, they see business – and businesspeople – as instrumental in remediating disparity.

#2 – Ruminating on a raise

Sheila is quite content with her present circumstances as a broker for a Boston firm. She enjoys the city and has no intention of leaving the many close friends she has in the area. Moreover, she is almost halfway through the MBA program at a local university.

While applauded for leadership potential in her most recent performance review, Sheila nonetheless views her near-term advancement opportunities as constrained due to soft market conditions. Mindful of the ever-increasing layoffs sweeping the brokerage industry, she is dubious about her prospects for enhanced remuneration yet reluctant to raise the issue directly for fear of precipitating some kind of political backlash.

Accordingly, she decides to contact her mother's brother who runs the trading division of a rival brokerage firm in San Francisco. Sheila has requested that he draft a letter offering her a job post in his office at a salary significantly superior to what she now earns. Her uncle has complied with Sheila's request. He would like to see his niece working in his San Francisco office even though he knows she has no intention of doing so.

Sheila is about to show the letter to her Boston boss. While emphasizing a preference to stay in her present position, she will also indicate how pleased she is to receive this external validation of her market worth. Sheila hopes that this strategy will induce her boss to increase her pay package.



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January 2010 Bar Bulletin

Ethics – An Annual Inquiry

By Judge Richard McDermott

This is the time of the year that seems to be appropriate for us to take a few minutes to re-examine ourselves, with a desire to improve in the coming year. Perhaps we, as members of the bar, should begin this exercise of introspection by examining our ethical standards.

This article is not meant to be a criticism of lawyer conduct or another "Views from the Bench." Rather, it is intended to challenge each of us to critically examine our own actions and resolve to do better. If you were to ask 10 attorneys to define the word "ethics," I suspect you may receive 10 different answers. I believe ethics is the foundation of how we human beings treat one another.

Ethics forms the basis for the rule of law that supports the institutions of organized society. Without ethics, we have no rule of law and no system of justice. Society as we know it crumbles. Liberty and opportunity cease and illegitimate power flourishes.

When I have the opportunity of swearing in new lawyers, I try to remind them that our system of ethics is central to the rights we enjoy on a daily basis. I challenge them to become soldiers of the Constitution, to protect and safeguard the rights guaranteed to us that we so often take for granted.

Central to that challenge is the obligation that we each have to conduct ourselves in the highest ethical manner. It is no surprise, then, that the Introduction to the Rules of Professional Conduct states: "The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government."

The Rules of Professional Conduct present us with a good starting point. And yet, we know that the RPCs are minimum standards from which we each should aspire to achieve more.

Society all too often dictates behavior. And that behavior is not what it should be or what any of us should accept from each other. We are

EXHIBIT Ep. 3

becoming less tolerant of those who are different, less patient with those who express a contrary view and more judgmental after we've heard a 30-second sound bite. We lawyers must buck the trend and treat other people — yes, even judges — with courtesy and respect at all times. Even the adversarial nature of what we do does not justify an exception to this principle.

Today, many lawsuits simply sink to the level of name calling, broken promises and outright fabrication. Though it may be extremely difficult, we lawyers must return to the day when our word was our bond, when we would never knowingly deceive anyone, regardless of the stakes. My father taught me that we are born into this world with only one thing: our reputation. It is also, ironically, the only thing we leave with. Let us resolve to keep our reputations from being tarnished.

Thousands of media outlets confirm for us that we are individually special, more special than anyone else. We are told that the world revolves around us and, sadly, we believe it. We ignore the reality that every human being is equal, that we are all placed on this earth for some purpose. Rather than working separately, we must re-learn how to work together; how, for instance, to call opposing counsel to schedule matters on a convenient date; how to be on time for depositions, appointments and court. We must aspire to return to the days of common courtesy.

The pressure to win at any cost is more evident now than ever before. It invades everything we do. Every sporting event is analyzed from the viewpoint of the winner and those who finish second are criticized, written off or simply ignored. Lawyers with contingent fees don't get paid by finishing second. The temptation to use any tactic to win — fair or unfair, ethical or borderline — is difficult to overcome, yet overcome it we must.

The RPCs require us to be fair to opposing counsel and honest to the unrepresented. They dictate that we must never knowingly falsify evidence, make frivolous discovery requests or seek continuances for the sole purpose of delaying the opposition. They tell us that minimum conduct requires accurate citations to the court, no manipulation of facts or witnesses, no frivolous motions and, above all, total honesty.

It is time for each of us to examine our own conduct with a critical eye. Being an attorney is serious, important work. It is at the same time one of the most rewarding and demanding careers we can pursue. It requires uncompromised ethical conduct.

Our system of justice is the most extraordinary system the world has ever seen. We constantly have citizens from other countries visit us in an effort to emulate us. We are the only country in the world where the mightiest and the most insignificant are to be treated equally. But for our system to succeed, for justice to prevail, it is mandatory that all of us have unquestioned ethical conduct.

At this time of the year, it is appropriate for all of us to look at ourselves critically and resolve to do better.

Judge Richard McDermott was appointed to the King County Superior Court in March 2000. As a judge, he has served as chair of the Board for Court Education and president of the Superior Court Judges' Association. Since 1999, he has served as an adjunct professor of law at Seattle University teaching Professional Responsibility to second- and third-year law students. He received the Outstanding Faculty Award in December 2004.

EXHIBIT B p.40

Appeals
IN THE ~~SUPERIOR~~ COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

Grazyna Prouty

vs.

Tahoma School
Board

Plaintiff(s).
Petitioner

Defendant(s).
Respondent

NO. *66908-7-1*
(#1/No. 66909-5-1)
CONFIRMATION OF SERVICE
SCOMIS CODE: CS/CSSRV

All the named defendants or respondents have been served or have waived service. (Check if appropriate; otherwise, check the box below.)

One or more named defendants or respondents have not yet been served. (If this box is checked, the following information must also be provided.)

Appr. Response Brief

The following defendants or respondents have been served or have waived service: _____

The following defendants or respondents have not yet been served: _____

Reasons why service has not been obtained: _____

How service will be obtained: _____

Date by which service is expected to be obtained:

_____ *1st* day of November '11

No other named defendants or respondents remain to be served.

1st day of November, 2011 _____
Date Attorney or Party

WSBA No. _____