

1 4. Shelton School District No. 309 is a school district organized under the laws of the
2 State of Washington. The Washington Corrections Center (WCC), operated by DOC, is located in
3 the geographic area served by the Shelton School District.

4 5. Peninsula School District No. 401 is a school district organized under the laws of the
5 State of Washington. The Washington Corrections Center for Women (WCCW), operated by DOC,
6 is located in the geographic area served by the Peninsula School District.

7 6. Cheney School District No. 360 is a school district organized under the laws of the
8 State of Washington. The Airway Heights Corrections Center (AHCC), operated by DOC, is located
9 in the geographic area served by the Cheney School District.

10 7. Cape Flattery School District No. 401 is a school district organized under the laws of
11 the State of Washington. The Clallam Bay Corrections Center (CBCC), operated by DOC, is located
12 in the geographic area served by the Cape Flattery School District.

13 8. Steilacoom Historical School District No. 1 is a school district organized under the
14 laws of the State of Washington. The McNeil Island Corrections Center (MICC), operated by DOC,
15 is located in the geographic area served by the Steilacoom School District.

16 9. Walla Walla School District No. 140 is a school district organized under the laws of
17 the State of Washington. The Washington State Penitentiary (WSP), operated by DOC, is located in
18 the geographic area served by the Walla Walla School District.

19 10. Monroe School District No. 103 is a school district organized under the laws of the
20 State of Washington. The Monroe Corrections Complex (MCC), operated by DOC, is located in the
21 geographic area served by the Monroe School District.

22 STIPULATED FACTS - 2

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1 Plaintiffs

2 11. As of April 1998, there were approximately 100 offenders incarcerated in the DOC
3 under age 18. Of these, approximately 10 were women and 90 were men.

4 12. All female offenders under age 18 incarcerated in the DOC are presently housed at
5 WCCW.
6

7 13. The DOC operates a Youthful Offender Program (YOP) at WCCW for female
8 offenders under the age of 18.

9 14. All male offenders under the age of 18 are presently housed at CBCC.

10 15. Prior to the execution of the contracts attached hereto as Exhibits 1-4, there were
11 youth under the age of 18 incarcerated in prisons operated by the DOC who were not being offered
12 the opportunity to participate in a school program that can lead to the attainment of a high school
13 diploma.
14

15 16. The DOC anticipates that the number of juvenile inmates under age 18 will increase
16 over the next several years due to the passage in 1997 of E3SHB 3900.

17 17. As of April 1998, there were approximately 1,027 youth under the age of 21
18 incarcerated in prisons operated by the DOC.
19

20 18. Offenders aged 18-21 incarcerated in the DOC are scattered throughout DOC's
21 facilities.
22

23 19. Since November 21, 1997, there have been and currently are youth under the age of
24 22 confined in every correctional facility operated by the Washington Department of Corrections
25 (DOC).
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STIPULATED FACTS - 3

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20. In the future, youth under the age of 22 are likely to be incarcerated at any of the correctional facilities operated by the DOC.

21. There are youth who are under the age of 21 incarcerated in prisons operated by the DOC who are not offered the opportunity to participate in a school program that can lead to the attainment of a high school diploma.

DOC ADMINISTRATION

22. Offenders committed to the custody of the DOC are assigned a classification level based on their crime of conviction, their escape history, their age, and other factors. This classification level may be maximum, close, medium or minimum security. An offender's classification level, along with other factors, determines an offender's placement within the DOC. For example, an offender classified as maximum security ordinarily will be housed in a maximum security facility.

23. An offender's classification level impacts the privileges he may have while in prison. Generally, an offender classified as maximum security has fewer privileges than an offender classified as minimum security. An offender's classification level may change at any time while in prison due to his behavior or for other reasons.

24. DOC has the authority to transfer any prisoner incarcerated at MICC, WSP, CBCC, WCC, MCC, WCCW, and AHCC to another prison.

HISTORICAL FACTS

25. OSPI does not evaluate or assess school age youth in any school districts or in prisons operated by DOC for their eligibility to receive special education and related services.

STIPULATED FACTS - 4

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1 26. OSPI does not provide any school age youth in any school district or in DOC prisons
2 basic or special education and related services.

3 27. Because OSPI claims it has no duty to do so, OSPI has never and does not now
4 monitor the educational programs in DOC correctional facilities.
5

6 28. Before the 1998 session of the Washington Legislature, defendant Bergeson never
7 included funding for education programs for youth in DOC prisons in OSPI's legislative budget
8 requests.

9 29. Prior to 1998, the Washington Legislature has never appropriated funds to OSPI for
10 distribution to school districts for education programs for youth in prisons operated by DOC.
11

12 30. Defendant Bergeson has never sought funding from the Washington Legislature for
13 the provision of basic and special education and related services to youth aged 18-22 in DOC
14 prisons.

15 31. The Office of Special Education Programs (OSEP) of the United States Department
16 of Education conducted reviews of Washington's compliance with federal special education laws in
17 at least 1984, 1988, and 1994.
18

19 32. Attached hereto as Exhibit 5 is a true and correct copy of a November 6, 1997 letter
20 from Teresa Bergeson, Superintendent of Public Instruction, to Senator James West, Representative
21 Tom Huff, and Richard Thompson, Director, Office of Financial Management. Attached hereto as
22 Exhibit 6 is a true and correct copy of Richard Thompson's reply.
23

24 33. Historically, the DOC, through its community college contracts, provided educational
25 programs at some institutions that led to the granting of a high-school diploma. These programs
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STIPULATED FACTS - 5

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1 were discontinued in 1996 because of a policy decision by DOC to adopt competency-based
2 instruction and because most offenders obtained GED certificates instead of high-school diplomas.
3 For fiscal years 1991-96, an average of 37 high-school diplomas were awarded per year to inmates
4 incarcerated in DOC, while for the same years an average of 567 GED certificates were awarded per
5 year to inmates. Of the approximately 1,027 offenders incarcerated in the DOC under age 21 as of
6 April 1998, approximately 209 were documented as having a high-school diploma or a GED.

8 34. Historically, the number of juveniles under age 18 incarcerated in DOC facilities was
9 less than it is now. The number of juveniles under age 18 committed to DOC began to increase after
10 passage in 1997 of E3SHB 3900. The 1997 Legislature appropriated approximately \$4,600 per
11 student per year to DOC for the first year, and \$3,600 per student per year thereafter, to implement
12 the education program. The appropriation under E3SHB 3900 for the second year was deleted and
13 replaced in ESSB 6600 by the institutional funding formula for the 1998-99 school year. The
14 Institutional Funding Formula will generate an average reimbursement of \$8,415 per student per
15 year.

18 35. Neither the Governor of Washington, his designee, nor any other executive official
19 has made any designation pursuant to 20 USC § 1412(a)(11)(C) regarding the education of youth
20 with disabilities in prisons operated by the DOC.

21 PROGRAMS AVAILABLE IN DOC

23 36. The DOC contracts with local community colleges for the provision of education
24 services at its facilities. Through these contracts, all DOC institutions except work releases and
25 Ahtanum View Corrections Center (AVCC) offer adult basic education (ABE) courses, General
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STIPULATED FACTS - 6

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1 Educational Development (GED) preparation, English as a second language (ESL), vocational skills
 2 training, crime related programs, and job readiness training. At AVCC, only ABE and crime-related
 3 programs are offered. ESL is not offered at Tacoma Pre-Release or Pine Lodge Pre-Release. Larch
 4 Corrections Center and Olympic Corrections Center do not currently offer vocational skills training.

5
 6 37. Adult basic education includes instruction in reading, writing, mathematics, inter-
 7 personal and problem-solving skills. GED preparation involves preparation courses for taking the
 8 GED examination in the five areas covered by the examination: writing, social studies, science,
 9 interpreting literature and the arts, and mathematics. English as a second language courses include
 10 instruction in speaking, reading and writing skills for offenders whose primary language is a
 11 language other than English. Job readiness training includes introductory instruction in those basic
 12 skills necessary for workplace success such as industrial safety, job dynamics, and computer basics.
 13 Vocational skills training includes preparation for various occupations, including building
 14 construction/ maintenance, business computers, welding, barbering, etc. Crime-related programs
 15 include courses in anger/stress management, victim awareness and similar programs.

16
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 18 38. The hours of instruction offered in DOC educational programs varies from institution
 19 to institution. The course offerings for vocational skills training and crime-related programs differ at
 20 the various institutions. No educational programs are offered at DOC's work release facilities. The
 21 educational provider at each institution generally is the local community college, although some job
 22 readiness programs are provided by Corrections Clearinghouse. Also, occasionally, crime-related
 23 programs are taught by DOC employees. DOC's Division of Correctional Industries provides some
 24 vocational skills courses at WCCW and AHCC. The community college providers generally do not
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STIPULATED FACTS - 7

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1 use certificated teachers, although some teachers employed by the community colleges and utilized
2 in DOC facilities may have teaching certificates.

3 39. DOC policy requires offenders under the age of 22 who do not have a GED or high-
4 school diploma to enroll in basic skills programming. Basic skills programming includes ESL,
5 GED, ABE and job readiness training. Under DOC policy, if an offender in an educational program
6 is unduly disruptive or otherwise presents a security risk, the superintendent of the institution
7 terminate the offender from the program.
8

9 40. All offenders committed to the custody of the DOC are received at the reception
10 centers. The male reception center is presently at WCC and the female reception center is presently
11 at WCCW. At each of the reception centers, offenders are tested to determine basic academic skill
12 levels. The test administered is the Test of Adult Basic Education (TABE). The offender's
13 education test results and education history are reviewed to determine placement in DOC educational
14 programs. Offenders who have obtained a GED or high-school diploma who have grade level scores
15 for basic skills less than ninth grade level may be enrolled in basic skills programs on a space
16 available basis.
17
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19 41. The DOC does not permit inmates to leave institutional grounds to attend education
20 programs.

21 42. Adult basic education programs provided by community colleges in DOC prisons are
22 designed primarily for adults age 18 and over and do not lead to a high school diploma.
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STIPULATED FACTS - 8

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1 ESSB.6600

2 43. Attached hereto as Exhibit 7 is a true and correct copy of the contract between
3 Peninsula School District, the Office of Superintendent of Public Instruction, and the Department of
4 Corrections, signed on 2/2/98 to provide an education program as referenced in the contract.
5

6 44. On May 29, 1998, to implement Chapter 244 of the Laws of 1998, the SPI solicited
7 proposals from interested agencies to provide educational services to youth under the age of 18 who
8 are imprisoned at the WCCW and CBCC for an 11 month, 220 school day program period during the
9 1998-1999 school year.

10 45. Applicants eligible to apply to SPI to become the provider of
11 educational services to youth under 18 at WCCW and CBCC during the 1998-1999 school year
12 include school districts, educational services districts (ESD's), public institutions of higher
13 education, private contractors, or any combination thereof.
14

15 46. Attached hereto as Exhibit 8 is a true and correct copy of OSPI's Request for
16 Proposals (RFP) for education services to youth under the age of 18 who are imprisoned at CBCC
17 and WCCW, dated May 29, 1998.
18

19 47. At all times relevant to this case, defendant school districts have not provided
20 educational services to youth under the age of 22 incarcerated in prisons operated by Department of
21 Corrections except:

- 22
- 23 (a) Peninsula School District contracted for services as provided in
Exhibit 7;
 - 24 (b) Cape Flattery and Peninsula School Districts have entered
25 into the contracts attached as Exhibits 1 through 4.
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STIPULATED FACTS - 9

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NON-INCARCERATED STUDENTS

48. Students in Washington between the ages of 5 and 21 who are not incarcerated in a prison operated by the DOC are eligible to participate in a school program that includes the basic education program requirements that can lead to the attainment of a high school diploma pursuant to RCW 28A.150.

49. Disabled children and youth in Washington between the ages of 5 and 22 who are not incarcerated in a prison operated by the DOC are eligible to receive special education and related services if they otherwise qualify for those services.

50. The GED certificate is not the same as a high school diploma. DOC has a policy that for the purposes of prisoners age 18 and older, a GED certificate is considered the equivalent of a high school diploma.

FUNDING

51. Historically, DOC has received federal funding through the office of Superintendent of Public Instruction (SPI) under the Title I program for its adult education programs. Some of these funds are being provided to Peninsula School District and Cape Flattery School District for the 1998-99 school year pursuant to the contracts attached hereto as Exhibits 1-4. DOC also receives federal money under the basic skills program through the Office of Adult Literacy, State Board for Community and Technical Colleges. The DOC does not receive any other federal funding for education purposes.

STIPULATED FACTS - 10

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1 52. OSPI receives federal funding under the Individuals with Disabilities Education Act
 2 (IDEA) and distributes some of these funds to the defendant school districts to be used for such
 3 educational programs as the law provides.

4
 5 53. The Washington State Legislature has the exclusive authority to provide state funding
 6 for education in the State of Washington.

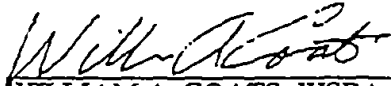
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