



SUPERINTENDENT OF PUBLIC INSTRUCTION

Randy I. Dorn Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

RE: Stern, Karl
OSPI Case No.: D14-01-002
Document: Agreed Order of Suspension

Regarding your request for information about the above-named educator; attached is a true and correct copy of the document on file with the State of Washington, Office of Superintendent of Public Instruction, Office of Professional Practices. These records are considered certified by the Office of Superintendent of Public Instruction.

Certain information may have been redacted pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: None

If you have any questions or need additional information regarding the information that was redacted, if any, please contact:

OSPI Public Records Office
P.O. Box 47200
Olympia, WA 98504-7200
Phone: (360) 725-6372
Email: PublicRecordsRequest@k12.wa.us

You may appeal the decision to withhold or redact any information by writing to the Superintendent of Public Instruction, OSPI P.O. Box 47200, Olympia, WA 98504-7200.



SUPERINTENDENT OF PUBLIC INSTRUCTION

Randy I. Dorn Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

IN THE MATTER OF THE EDUCATION)	
CERTIFICATE OF)	OPP No. D14-01-002
)	
)	AGREED ORDER
Karl Stern)	OF SUSPENSION
Certificate No. 428263H)	
_____)	

INTRODUCTION

After receiving and investigating a complaint from Lake Stevens (Washington) School District regarding the above referenced educator, and based upon the facts available as of the date of this Agreed Order, the Superintendent of Public Instruction, through his undersigned designee, does hereby stipulate, by and between the Office of Superintendent of Public Instruction (OSPI), the Office of Professional Practices and Karl Stern, that the Washington Education Certificate, No. 428263H, of Karl Stern, shall be suspended for twelve (12) months, based on the Findings of Fact and Conclusions of Law set forth below:

I. FINDING OF FACTS

1. On July 18, 2005, Karl Stern, hereafter referred to as Mr. Stern, was issued Washington Education Certificate, No. 428263H. That certificate expired on June 30, 2015. The actions described in the following Findings of Fact occurred while Washington Education Certificate No. 428263H was valid.

2. From the beginning of the 2006-2007 school year until January 2, 2014, Mr. Stern was the Lake Stevens School District Transition Program teacher.

Transition Programs and Lake Stevens School District
Transition Program

3. A Transition Program is a special education program for eligible students, aged 18-21, to transition them from a K-12 school environment to independent living as an adult, as much as possible depending on the student's abilities. The Lake Stevens School District, hereafter referred to as LSSD, Transition Program, as other Washington school district special education transition programs, teaches the participating students independent living skills to include, but not limited to, employment preparation, personal management activities and skills, recreation and leisure activities in community settings, transportation utilization, and self-advocacy skills.

a. As part of a transition program, students are placed at participating community businesses to gain and improve vocational skills.

b. As part of a transition program, students receive experience utilizing community recreation/leisure, physical fitness, and social oriented locations to gain experience, skills and knowledge of outlets to further their ability for independent living.

c. As part of the LSSD transition program, students receive instruction and experience in community settings for purposes of learning skills to improve or increase their independent living ability.

4. When Transition students are participating in outings for independent living skills objectives, students can be taken in small groups or individually and are accompanied by a program staff member or members.

a. The process of instructing students on how to perform tasks relevant to an outing are to be broken down into basic individual steps for instruction. Each step is instructed, modeled, student performed, and repeated, as necessary, until the student learns the tasks with increasing levels of independence and performance. The tasks selected and taught depends on the individualized education program (IEP) and transition plan.

b. During the process of instructing a Transition student to complete a task with as much independence as they can, the process starts with one-on-one staff guidance and close supervision and progresses to, depending on student ability, IEP, and transition plan, a time when the student would have line-of-sight supervision where the student believes they are independent.

- c. All activities for a Transition program student or group of students should relate to an IEP specified measurable goal and objective of the students and relate to an area of service for the students involved. Students should receive instructions or education on how to interact with the activities and resources available during the outing. This instruction should be presented to students prior to and/or during the outing.
 - d. Student independence level is determined by psychological evaluations and reevaluations, IEP's, Transition plans, and staff and parent input.
- 5. When Transition students are participating in community outings for recreation and/or social related objectives, large groups of students are accompanied by program staff.
 - a. Activities for recreation, physical fitness, and/or social skills related IEP objectives may include outings to community locations such as bowling alleys, movie theaters, shopping malls, local colleges, and physical recreation facilities such as a YMCA.
 - b. All activities for a Transition program student or group of students should relate to an IEP specified measurable goal and objective of the students and relate to an area of service for the students involved. Students should receive instructions or education on how to interact with the activities and resources available during the outing. This instruction should be presented to students prior to and/or during the outing.
 - c. During these outings, Transition program staff maintain, at the minimum, a line of sight supervision of students, unless an IEP specifies otherwise.
- 6. The LSSD Transition Program was started in the 2006-2007 school year. Mr. Stern worked with Ruth Keller, Special Services Executive Director, and Linda Darling, Special Services Assistant Director, to create the framework of the program, specific aspects and documents utilized for the program.
- 7. LSSD Transition Program community outings took place on Fridays.
 - a. Community outing locations utilized by Mr. Stern for the Transition Program included, but were not limited to, the LSSD Aquatic Center, a bowling alley, a movie theater, a shopping mall, lunch with other district transition programs, and other Lake Stevens area community events.
 - b. The community outings are intended to provide educational opportunities for students on how to utilize recreational and leisure facilities and to gain/increase socialization skills.

8. Mr. Stern utilized a monthly calendar as notification to Transition Program parents and guardians for upcoming events for Transition Program students. The calendars were sent home with students at or near the beginning of each month; although some were e-mailed to families.

FN - 20 year old male Transition Program Student

9. FN was a 20 year old male student who had been in the LSSD Transition Program since the start of the 2012-2013 school year. FN had transferred into LSSD from the Everett School District in August/September 2012.

a. FN was an immigrant from Burundi who, after living the first 16 years of his life in a refugee camp in Tanzania, came to the United States. Prior to August 2013, FN had attended school in the United State for about forty (40) months.

b. FN had a known, diagnosed seizure disorder. In August of 2011, FN underwent a craniotomy in an attempt to alleviate and reduce seizures.

c. A 2008 psychological evaluation stated that FN's actual language use was primitive, he had moderate mental retardation, and, due to mental and physical limitations, he would be unlikely able to live independently in the future.

d. A 2009 psychological evaluation noted, among other entries, that FN: had difficulty with self-advocacy; expressing if he doesn't understand directions and needs help; required a structured classroom and routine; skills which require rote memory are stronger for FN than those that require comprehension and application of process; and simple directions and assignments are difficult for him and it may take repeated modeling for him to accomplish a task.

e. FN's student profile in LSSD Skyward program lists, more than once, that FN had a health condition of "NP-Seizure Disorder", "OB-Life Threatening Condition" or similar language.

f. FN's Transfer Verification of Eligibility and IEP Program states that FN's goals for the LSSD Transition Program were for written language, reading and math for areas of vocational and self-help. Behavior and Social Skills were not areas marked for services.

g. A reevaluation was completed in 2012 by the Everett School District special education personnel; where FN had attended prior to his enrollment in LSSD.

1. Under Present Level of Performance and Adverse Educational Impact, the psychologist noted that for FN: all areas that were conceptual were of great difficulty for him; (FN's) overall ability to solve a cognitive problem accurately inferring a solution based on a set of facts is significantly impaired; he will find it very difficult to learn information in the content areas; this level of cognitive ability also means that he may not be able to make decisions about safety and independence without assistance.
 2. Under Teacher Report, the psychologist noted that FN's teachers reported that even simple directions and assignments are difficult for him and it may take repeated modeling for him to accomplish the task.
 3. Under Communication, FN was noted to have been screened in both Swahili, his native language, and English and FN appeared to have equal difficulty with both languages.
 4. An SLP, after evaluating communication abilities, noted that FN was able to participate in PE class but is slow to learn the concepts of the sport or game. The SLP also noted that FN continues to need assistance in all adaptive areas to work towards gaining the most independent life he can achieve.
 5. In Recommendation to IEP team, recommended areas of specially designed instruction were reading, written expression, mathematics, self-help skills and pre-vocational/vocation skills. Recommended strategies listed included: repetition; teach him safety signs, use both verbal and visual teaching methodologies, and provide him a model of what is expected.
- h. In FN's March 3, 2012 IEP included:
1. In Present Levels of Functional Performance, (FN) is improving his ability to converse with others but continues to have difficulty with self-advocacy, expressing to others if he doesn't understand directions, needs help, doesn't feel well, or wants something. (FN) has difficulty with communicating understanding and understands best when visual cues are paired with verbal instruction.
 2. In the Secondary Transition, Age Appropriate Transition Assessments, (FN) needs to continue to improve his English language communication, comprehension and language arts skills. He needs to practice using public transportation and help with self-advocacy to communicate his needs and wants. In the Independent Living Skills, measurable postsecondary goal, the goal listed is that upon graduation, (FN) will live at home or in a group home. He will independently prepare himself for the day and make his breakfast/lunch. His family will help him access employment and leisure activities.
 3. Under Courses of Study, (FN) attends an alternate curriculum in a self-contained life skills and adult transition program. He receives specially designed instruction with a focus on supported work based learning, self care, community involvement, and vocational skills.

4. In the Summary of Services Matrix, areas of difficulty listed for FN are written expression, math, pre-vocational/vocational, and self-help skills. Personal/social behavioral skills was not noted as an area to receive services. A notation of "All classroom staff should be familiar with (FN's) seizure ECP.

- i. FN's 2012-2013 IEP, created by Mr. Stern, does not list social skills or behavior skills as a goal or objective or areas in which to receive or focus services.

Failure to adequately provide meaningful instruction
and supervision to LSSD Transition Program Students

10. During, at least the 2012-2013 school year, Mr. Stern failed to adequately supervise, provide supervision of students, and failed to provide measures to ensure student safety. Mr.

Stern:

- a. Failed to assign specific students to specific staff for supervision at the aquatic center, as was done for other community-based outings.
- b. Failed to give directions and instructions to staff about their duties for supervision of students while at the aquatic center.
- c. Failed to give adequate directions, expectations, and instructions to students on their expected behaviors while at the aquatic center.
- d. Failed to ascertain student swimming abilities and/or comfort level in a body of water such as a swimming pool.
- e. Failed to notify aquatic manager/lifeguard, Ms. Edmondson (Miller), of student medical conditions or life-threatening conditions that may limit students' ability to be in a body of water such as the swimming pool.
- f. Failed to discuss Transition staff roles and supervision levels with Erin Edmondson (Miller).
- g. Failed to notify Ms. Edmondson (Miller) that he was unaware of student swimming abilities or comfort level in a body of water such as a swimming pool.

/

/

/

/

/

/

/

/

May 31, 2013 Lake Stevens Aquatic Center Incident

11. On May 31, 2013, the LSSD Transition Program was scheduled to have an outing to the LSSD Aquatic Center so students could be in the pool, if they chose to.

a. When the LSSD Aquatic Center was utilized by the Transition Program staff and students starting in or about the 2006-2007 school year, Ms. Keller gave directions to Mr. Stern and Transition Program staff that staff would be in the water with students. Ms. Keller wanted staff in the water with students so as to provide close supervision.

b. Ms. Keller and Ms. Darling left the District after approximately the 2009-2010 school year. Miriam Tencate became the Executive Director of Special Services.

c. After Ms. Keller and Ms. Darling left their positions with LSSD, Mr. Stern and Transition Program staff stopped being in the water with students at the aquatic center.

d. The purpose of the outing to the Aquatic Center was for enjoyment rather than educational.

e. Participation in being in the pool was optional for students.

f. At or about 10:30 AM, Mr. Stern first transported six (6) Transition program special education students, including FN, and one (1) female para-educator to the LSSD Aquatic Center for a community-based outing at the aquatic center swimming pool for the third swimming outing of the year. The remainder of the Transition students and staff stayed at the Transition program site (the Boys & Girls Club) until Mr. Stern returned to retrieve them.

g. Upon arriving at the aquatic center between 10:45 AM and 10:58 AM, Mr. Stern dropped off five (5) male students, one female student, and one female para-educator, Eugenie Scholtz, and then left to return to the Boys & Girls Club without entering the aquatic center and contacting Ms. Edmondson (Miller).

h. The only direction given to staff and students on this day was either not to enter the water until the lifeguard said to or not to enter the water until 11:00 AM.

i. Mr. Stern did not give Ms. Scholtz directions on how to supervise the five (5) male students while they were in the changing/locker room and she was in the female locker/changing room with the female student.

j. The five (5) male students were unsupervised while in the changing/locker room and around the pool while Ms. Scholtz was in the female locker/changing room with the female student.

k. Between the time Mr. Stern left the aquatic center and approximately 11:05 AM, FN entered the pool, unbeknownst to all staff at the pool, and was located later by staff and the lifeguard laying on the bottom of the pool unresponsive.

l. FN was emergency removed from the pool by Ms. Edmonson (Miller) and transported by ambulance to an area hospital. Within a week, FN had died due to drowning.

12. On November 14, 2013, LSSD issued Mr. Stern a Probable Cause Letter for Unprofessional Conduct. The letter listed seven findings, including:

a. Mr. Stern left students alone with Para educators without properly instructing Para educators with respect to their duties and supervision responsibilities;

b. Mr. Stern directed students into a pool activity without informing himself as to whether or not the student at issue was able to swim and he had decided not to ask students if they could swim;

c. Mr. Stern had a student participate in a pool activity when he knew the student had a seizure disorder that could render him unable to control his normal motor skills thus, presenting an unacceptably high risk of drowning in a pool;

d. Mr. Stern knew his students had special medical considerations that needed to be taken into account when allowing participation in Transition Program activities and he decided not to educate himself to the medical restrictions of FN;

e. Mr. Stern chose not to obtain parental consent before having the class engage in activities in the pool.

13. On January 2, 2014, Mr. Stern signed a Settlement Agreement with LSSD. In the agreement, the District was to pay Mr. Stern a sum of money and he was to resign his employment; effective the day the agreement was signed by Amy Beth Cook, LSSD Superintendent.

14. On August 6, 2015 and October 5, 2015, Mr. Stern participated in interviews with an OPP investigator. On September 3, 2015 and October 20, 2015, Mr. Stern, through his attorney, returned signed sworn statements to OPP.

II. CONCLUSIONS OF LAW

1. Chapter 28A.410 RCW gives the Professional Educator Standards Board the authority to develop regulations determining eligibility for and certification of personnel employed in the common schools of the state of Washington. OSPI acts as the administrator of those statutes and regulations and has the authority to issue, suspend, and revoke education certificates. RCW 28A.410.010, .090. WAC 181-86 and WAC 181-87 further implement OPSI's authority.
2. OSPI has jurisdiction over Karl Stern and the subject matter discussed herein.
3. Karl Stern committed acts of unprofessional conduct by unprofessional/improper supervision of students; WAC 181-87-060 (1).
4. There is clear and convincing evidence that Karl Stern committed unprofessional conduct. WAC 181-86-170.
5. Pursuant to WAC 181-86-080, eleven factors are to be considered to determine the appropriate level and range of educator discipline:
 - (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
 - (2) The person's criminal history including the seriousness and amount of activity;
 - (3) The age and maturity level of participant(s) at the time of the activity;
 - (4) The proximity or remoteness of time in which the acts occurred;
 - (5) Any activity that demonstrates a disregard for health, safety or welfare;
 - (6) Any activity that demonstrates a behavioral problem;
 - (7) Any activity that demonstrates a lack of fitness;
 - (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
 - (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
 - (10) Any information submitted to support character and fitness; and
 - (11) Any other relevant information submitted.

/

/

/

6. Based on the foregoing facts and considering them in light of the eleven factors enumerated in WAC 181-86-080, and in light of WAC 181-86-070 (Grounds for issuance of a suspension order), and WAC 181-87-060(1) (Disregard or Abandonment of Professionally Recognized Standards), Karl Stern's education certificate should be suspended for unprofessional conduct.

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

III. ORDER

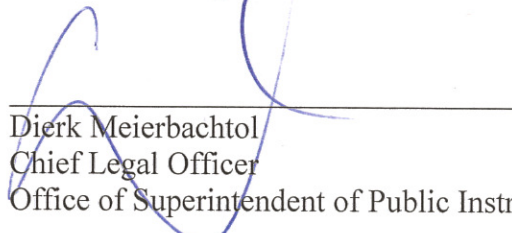
THEREFORE, it is hereby ordered and agreed that Karl Stern's ability to apply for reinstatement of Washington Education Certificate, No. 428263H, be suspended for twelve (12) months from the signed date of entry of this Order, and that:

REINSTATEMENT of Karl Stern's education certificate shall require: (1) successful completion of a training course or program on supervision of special education students by a training provider mutually agreed upon by the Office of Professional Practices and Karl Stern; (2) successful completion of a training course or program on appropriately creating individualized IEP goals and objectives unique to each student by a training provider mutually agreed upon by the Office of Professional Practices and Karl Stern; (3) Karl Stern will provide proof of completion of the above-listed trainings; (4) submission of a new application, including Character and Fitness Supplement, provided by OPP and having Karl Stern's fingerprints be checked by both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP); and (5) Karl Stern will show that he meets all academic requirements for renewal/reinstatement of the education certificate. Reinstatement shall also be contingent upon Karl Stern's fingerprint background check returning with no criminal convictions, occurring after the date of issuance of a Final Order of Suspension, that are listed in WAC 181-86-013, RCW 28A.410.090, or any felony convictions. The cost of conformance to all reinstatement requirements will be the responsibility of Karl Stern.

DATED This 15th April day of March, 2016.

RANDY I. DORN
Superintendent of Public Instruction
State of Washington


Stipulated to and approved
For entry:



Dierk Meierbachtol
Chief Legal Officer
Office of Superintendent of Public Instruction



Karl Stern, Respondent



Eric R. Hansen, Attorney for Respondent
WSBA #14733

KARL STERN
AGREED ORDER OF SUSPENSION