

## Million Dollar Settlement Highlights Need to Accommodate Students with Hearing Loss

Reported by Hearing Health & Technology Matters July 21, 2015

<http://hearinghealthmatters.org/hearingnewswatch/2015/million-dollar-settlement-highlights-need-accommodate-hearing-loss-0721/>

*GRANDVIEW, WASHINGTON*—a rural school district in Washington state has settled a Federal Civil Rights case for \$1 million dollars according to a recent [news release](#).

According to the report, the [Grandview School District](#) had claimed that student José Garcia was at fault for his inability to learn, due to “ineffective use” of hearing aids. Additionally the district had made claims that he was learning disabled due to an injury suffered at birth.

Testing, however, revealed José had a normal I.Q. and the profound nature and degree of his hearing loss meant that his hearing loss could not be “cured” by effective hearing aid use alone.

Over the course of his 14 year education with the school district, funding was provided for José’s education. However, the funding was used to place him in a self-contained classroom serving students with much more severe physical and mental disabilities.

According to testimony from Carol Carrothers, Coordinator of Deaf and Hard of Hearing Services for the [Washington State Sensory Disability Services](#), there was no disability-based reason why José required a self-contained classroom at any point in his academic career.

### Against the Odds

Not until he was a 17 year-old high school junior did José first discover that he would be unable to graduate with his class. Frustrated, neither he nor his mother, who is illiterate and only speaks Spanish, could understand why the passing grades he had received on his report cards over the years had no real correlation to his educational achievement. Instead, José had math and reading skills equivalent to second or third grade.

In the fall of 2009, Ms. Carrothers reported to the school district that she had tutored José over the summer and that he was functioning at a very low academic level. She recommended José receive both specialized instruction and appropriate assistive technology. The District, however, did not act on that information.

Later that year, the [Yakima Hearing and Speech Center](#) referred José’s mother to a parent advocate, [Sherry Mashburn](#). The advocate arranged a meeting with all of José’s teachers—at least one of which admitted she was unaware of his hearing loss.

### Case Goes to Court, District Loses (Twice)

After a three week hearing in 2010, the Grandview School District was ordered to provide José with six years of remedial education. After appeal the district was found at fault yet again, for “significant educational deprivation”, but instead of six years it was ordered to provide four years of remedial education.

Both judges who oversaw the case determined that the school district withheld information from the parent in violation of federal law<sup>[1]</sup>. The district had failed to attend or conduct mandatory [Individualized](#)

[Education Program](#) (IEP) meetings<sup>[2]</sup>, then attempted to cover up the failure by deliberately testifying falsely.

The Courts agreed with José's attorney, Kerri Feeney, that the District should not be entrusted to educate José. Instead the court appointed [Dr. Wendy Marlowe Ph.D.](#), as the program manager to assemble a team of educators and other specialists.

The district was ordered to pay for the extensive education program for José, which cost approximately \$250,000 each year, for four years.

### **Happy Ending for José**

Now at age 22, after four years of extensive remedial education, José was able to walk with his fellow classmates at the 2015 high school graduation in June. He will formally complete his education in November of this year and receive his high school diploma.

Once he completes his education, José has plans to attend trade school to become an electrician.

*Source: KIMATV, Yakima Herald*

**Footnotes** (↵ returns to text)

1. US Federal laws protecting individuals and students with disabilities such as hearing loss include: The Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, The Individuals with Disabilities Education Act (IDEA)<sup>↵</sup>
2. The UK and Canadian equivalent to the IEP is referred to as the Individual Education Plan<sup>↵</sup>