

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID PALAMARYUK, by and through  
his parent and next friend, AVRAM  
PALAMARYUK,

Case No. C17-441-MJP-JPD

Plaintiff,

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO DISMISS

ELAINE DUKE, et al.,

## Defendants.

Having reviewed the Report and Recommendation of the Honorable James P. Donohue, Chief United States Magistrate Judge, any objections or responses to that, and the remaining record, the Court finds and ORDERS:

(1) The Court ADOPTS the Report and Recommendation

(2) Defendants' motion to dismiss, Dkt. 21, is GRANTED in part and DENIED in part. Plaintiff's Administrative Procedures Act claim is DISMISSED with prejudice. Plaintiff may proceed with his Rehabilitation Act and Due Process claims.

(3) This matter is RE-REFERRED to Judge Donohue for further proceedings.

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(4) The Clerk is directed to send copies of this Order to the parties and to Judge Donohue.

Dated this 12th day of March, 2018.

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Marsha J. Pechman  
United States District Judge

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