

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
SUPERINTENDENT OF PUBLIC INSTRUCTION**

IN THE MATTER OF THE EDUCATION OF) **FINAL ORDER OF DISMISSAL**
)
Student and Yamhill-Carlton School District) Case No. DP 13-122
)

FINDINGS OF FACT

(1) On November 26, 2013, Parents, requested a due process hearing with Yamhill-Carlton School District (District) and the State Superintendent of Public Instruction, alleging that the District had failed to provide a free and appropriate education for Student as required under the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), 20 USC §§ 1400 *et seq.* The matter was referred to the Office of Administrative Hearings (OAH) on November 26, 2013 for hearing. The matter was assigned to Administrative Law Judge (ALJ) Jill Marie Messecar of the OAH. A pre-hearing (PHC) teleconference was set for December 27, 2013.

(2) On December 27, 2013, during the PHC, Parents, who appeared pro se, informed ALJ Messecar, that they planned to participate in mediation instead of a resolution session and hoped to hold the mediation the week of January 20, 2014. Rich Cohn-Lee represented the District. The District agreed that it planned to participate in mediation and was unaware of any dates that had been scheduled. Parents agreed that they wanted to participate in mediation even if it required the DP hearing date to be pushed back. The District also requested an extension of the 45-day deadline to allow the parties to work toward resolution. ALJ Messecar granted the requests and extended the deadline for issuing the final order to April 8, 2014. A second pre-hearing teleconference was scheduled for January 10, 2014 at 11:00 a.m.

(3) On January 10, 2014, a second pre-hearing teleconference was held with Parents and the District. Both parties indicated that the mediation was scheduled for January 21, 2014. A briefing and motion schedule were discussed and agreed upon. The order deadline that had been previously been extended was not changed. A third PHC was scheduled for January 23, 2013 at 11:45 a.m. in case the parties could not complete reach agreement of all issues at mediation.

(4) On January 22, 2014, Parents, via e-mail, informed ALJ Messecar that the case had been settled. Parents withdrew the hearing request and asked that the request be dismissed. Accordingly, the matter having been settled by agreement between the parties, a contested case proceeding is no longer required in this matter, based on the withdrawal of the hearing request by the requesting party and a mutual settlement of the issues raised by the Student’s hearing request.

ORDER

The November 26, 2013 request for a due process hearing has been withdrawn and the case is therefore **DISMISSED WITH PREJUDICE**.

Jill Marie Messecar

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

NOTICE TO ALL PARTIES: If you are dissatisfied with this Order you may, within 90 days after the mailing date on this Order, commence a nonjury civil action in any state court of competent jurisdiction, ORS 343.175, or in the United States District Court, 20 U.S.C. § 1415(i)(2). Failure to request review within the time allowed will result in **LOSS OF YOUR RIGHT TO APPEAL FROM THIS ORDER**.

ENTERED at Salem, Oregon this 30th day of January, 2014 with copies mailed to:

Jan Burgoyne, Oregon Department of Education, Public Services Building, 255 Capitol Street NE, Salem, OR 97310-0203.

CERTIFICATE OF SERVICE

On this 30th day of January 2014, I served a copy of the Final Order of Dismissal for Case No. DP 13-122 on the following:

BY FIRST CLASS MAIL:

Parent(s) of Student
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Yamhill OR 97148

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Lucy Garcia
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