

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON DEPARTMENT OF EDUCATION**

IN THE MATTER OF THE EDUCATION OF) **FINAL ORDER OF DISMISSAL**
)
STUDENT AND NEAH-KAH-NIE) Case No.: DP 16-102
SCHOOL DISTRICT 56)

FINDINGS OF FACT

(1) On February 9, 2016, Diane Wiscarson and Elizabeth Polay, Attorneys at Law, of Wiscarson Law, filed a request for a due process hearing (hearing request) on behalf of Parent and Student with the Oregon Department of Education, alleging that Neah-Kah-Nie School District 56 (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 parties jointly waived resolution in favor of mediation. The resolution period ended on March 9, 2016 with no resolution session having been held.

(2) The matter was referred to the Office of Administrative Hearings (OAH) on February 9, 2016, to be set for hearing and was assigned to Senior Administrative Law Judge (ALJ) Bernadette H. Bignon. ALJ Bignon convened a pre-hearing teleconference on March 2, 2016. Ms. Polay appeared on behalf of Parent and Student. Nancy Hungerford, Attorney at Law of the Hungerford Law Firm, appeared and represented the District. The parties informed ALJ Bignon that they had scheduled mediation for the first available date, April 29, 2016. Because the parties had set a date for mediation and were working towards resolution of the matter, the parties' joint request to extend the 45-day deadline to a date certain was granted. The hearing was set for May 31 through June 3, 2016 and June 14, 2016; final order due on or before August 19, 2016.

(3) On May 2, 2016, Ms. Polay, on behalf of Parent and Student, informed the OAH that the parties had reached an agreement on all issues raised in the February 9, 2016 request for a due process hearing. Ms. Polay therefore requested that the request for due process hearing be dismissed with prejudice.

(4) Accordingly, based on Parent's request, through counsel, and representation that the parties have settled by agreement the issues raised in the February 9, 2016 due process hearing request, a contested case proceeding is no longer required.

ORDER

The hearing request of February 9, 2016, regarding issues raised by Parent and Student against Neah-Kah-Nie School District 56 having been withdrawn, is **DISMISSED** with prejudice.

Bernadette H. Bignon

Senior 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 3rd day of May, 2016, with copies mailed to:

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

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing FINAL ORDER OF DISMISSAL in Case No. DP 16-102 on the foregoing parties on the 3rd day of May 2016 by depositing a copy of said document in a sealed envelope in the United States Mail at Salem, Oregon, with the postage thereon fully prepaid, and addressed to:

Parent(s) of NB
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Alesia Vella
Hearings Coordinator
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