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 Reynolds School District)	Case No. DP 11-133

FINDINGS OF FACT

- (1) On December 21, 2011, Lana Traynor, Attorney at Law, filed a request for an expedited due process hearing¹ on behalf of Parents and Student, with the Reynolds 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.
- (2) The matter was referred to the Office of Administrative Hearings (OAH) on December 22, 2011, to be set for hearing and was assigned to Senior Administrative Law Judge (ALJ) A. Bernadette House. On January 3, 2012, Graham Hicks, Attorney at Law, acting on behalf of District, filed a Motion in Opposition to Expedited Status.
- (3) ALJ House convened a pre-hearing teleconference on January 6, 2011. Ms. Traynor appeared on behalf of Parents. Mr. Hicks appeared on behalf of the District. The parties informed ALJ House that the parties had orally agreed to waive the resolution session because they intended to proceed to mediation. Parents requested, and District agreed to, an extension of the 45-day deadline to a date certain to allow time for mediation to occur. Mediation was scheduled for January 24, 2012. Because the parties had set a date for mediation and were working towards resolution of the matter, and because District had no objection, the request to extend the 45-day deadline to a date certain was granted. The hearing was set to begin February 28, 2012, and relevant deadlines were agreed upon. The Final Order was to be issued on or before April 27, 2012.
- (4) During the prehearing teleconference, ALJ House informed the parties that the hearing request did not meet the criteria for an expedited process under the IDEIA. On January 11, 2011, ALJ House issued a written order, confirming the oral ruling.
- (5) As of a teleconference held on May 1, 2012, Diane Wiscarson appeared on behalf of Parents.² Mr. Hicks appeared for the District. The parties were scheduled for mediation on

¹ OAR 581-015-2445 sets out the requirements for expedited status for a due process hearing request.

² On January 23, 2012, Ms. Traynor advised the OAH that she no longer represented Parents in this matter. On February 6, 2012, Greg Oliveros, Attorney at Law, informed the OAH that he had assumed representation of Parents, and that mediation was scheduled for February 9, 2012. Following Parents' request to postpone, unopposed by District, the matter was reset for hearing to begin May 7, 2012. On April 27, 2012, Diane Wiscarson, Attorney at Law, notified the OAH that she had been retained to

May 4, and 7, 2012 and requested a further postponement to allow the parties to work towards agreement through the mediation process. The request was granted and the hearing was set for September 6, 7, 10, and 12, 2012, with the Final Order to be issued on or before November 20, 2012.

- (6) On May 8, 2012, Ms. Wiscarson informed the OAH that the parties had reached an agreement on all issues raised in the December 21, 2011 request for a due process hearing. Ms. Wiscarson therefore requested that the request for due process hearing be dismissed with prejudice.
- (5) Accordingly, based on Parents' request, through counsel, and representation that the parties have settled by agreement the issues raised in the December 21, 2011 due process hearing request, a contested case proceeding is no longer required.

ORDER

The hearing request of December 21, 2011, regarding issues raised by Parents and Student against Reynolds School District, having been withdrawn, is **DISMISSED** with prejudice.

/s/ A. Bernadette House
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 8th day of May, 2012 with copies mailed to:

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

represent Parents. Before granting a further postponement as requested, ALJ House scheduled a prehearing teleconference for the purpose of setting a new date certain for the hearing and Final Order.