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

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Student and Seaside School District ) Case No.	. DP 14-106

### FINDINGS OF FACT

- (1) On April 23, 2014, Parents, requested a due process hearing with Seaside 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 April 23, 2014 for hearing. The matter was assigned to Administrative Law Judge (ALJ) Jill Marie Messecar of the OAH. A pre-hearing teleconference (PHC) was set for May 28, 2014.
- (2) Diane Wiscarson, attorney at law, represented Parents at the May 28, 2014 PHC. Rich Cohn-Lee represented the District. At the PHC, the parties informed ALJ Messecar that they had agreed to participate in mediation on June 14, 2014 and would therefore not be holding a resolution session. The parties agreed that they expected to have a finalized settlement within a few days of the mediation. Parents asked that the DP hearing date 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 December 12, 2014. A second PHC was scheduled for June 20, 2014 at 8:00 a.m.
- (3) On June 20, 2014, a second PHC was held with Parents and the District. Both parties indicated that the mediation was held and an agreement was in the process of being finalized. The order deadline that had been previously extended was not changed. A third PHC was scheduled for July 3, 2013 at 8:00 a.m. in case the parties could not finalize an agreement of all issues at mediation.
- (4) On July 3, 2014, a third PHC was held with Parents and the District. The parties indicated that they were still working on a settlement but did not expect to settle all issues. A motion and briefing schedule were discussed and agreed upon. The order deadline that had been previously extended was not changed
- (5) On July 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 with prejudice. 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 April 23, 2014 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 23<sup>rd</sup> day of 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

I hereby certify that I served the foregoing FINAL ORDER OF DISMISSAL in Case No. DP 14-103 on the foregoing parties on the 23<sup>rd</sup> day of July 2014 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 WA PO Box 140 Seaside, OR 97138

Diane Wiscarson Attorney at Law Wiscarson Law PC 510 SW 3rd Avenue, Suite 439 Portland, OR 97204

Richard G. Cohn-Lee Attorney at Law Hungerford Law Firm LLP PO Box 3010 Oregon City, OR 97045

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Ryan Clark

Hearings Coordinator
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