

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

IN THE MATTER OF:THE) **FINAL ORDER**
EDUCATION OF)
) OAH Case No. 2019-ABC-03263
R.R. AND MCMINNVILLE SCHOOL) Agency Case No. DP 19-112
DISTRICT 40

FINDINGS OF FACT

1. On November 1, 2019, Dr. Kim Sherman, attorney at law, filed a Request for Due Process Hearing Complaint with the Oregon Department of Education (ODE) on behalf of the Parents. ODE subsequently referred the request to the Office of Administrative Hearings (OAH). The OAH assigned the case to Administrative Law Judge (ALJ) Jill Marie Messecar.

2. On November 13, 2019, the OAH mailed a Notice of Prehearing Teleconference to the parties, scheduling the teleconference for November 14, 2019. ALJ Messecar held the teleconference as scheduled. Attorney Dr. Kim Sherman represented Parents and Attorney Joel Hungerford represented the District. The complaint contained allegations that subjected the hearing to the expedited hearing provisions of the IDEA. Parents requested permission to amend the complaint to withdraw the allegations that were subject to the expedited hearing requirements and that request was approved. On November 15, 2019, Parents filed a First Amended Complaint (Amended Complaint) which did not contain any allegations that subjected the hearing to expedited hearing requirements.

3. A second Prehearing Teleconference was held with the parties on December 19, 2019. The parties informed the ALJ that they had waived the resolution session and that waiver was reduced to writing which the parties agreed to forward to the OAH. The parties also advised the ALJ that they were scheduled to attend mediation in the middle of February 2020. The parties jointly moved to extend the 45 day timeline issuing the order to allow the parties to participate in mediation. Finding good cause to do so, ALJ Messecar extended the deadline to issue a final order to July 17, 2020. Deadlines for motions, responses, and orders were discussed and agreed upon. A third prehearing teleconference was scheduled for February 26, 2020.

4. On February 26, 2020, the parties and ALJ Messecar participated in a third prehearing teleconference. At the prehearing conference, the parties agreed to hold the due process hearing from April 6 to April 17, 2020. In accordance with the established prehearing motion schedule, on March 2, 2020, the District filed a Motion for Partial Summary Determination. On March 13, 2020, Parent filed Student's Response to the District's Motion for Partial Summary Determination. The Order addressing the motion was due on March 27, 2020.

5. On March 26, 2020, prior to the ALJ Messecar issuing a ruling on the District's Motion for Partial Summary Determination, Dr. Sherman filed a motion to dismiss Parent's due process hearing request with prejudice. The motion to dismiss stated that the parties reached a settled agreement on March 26, 2020.

ORDER

Parent's November 1, 2019 Due Process Complaint and Amended Complaint in the above-captioned matter are **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 27th day of March, 2020, with copies mailed to:

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

CERTIFICATE OF MAILING

On March 27, 2020 I mailed the foregoing FINAL ORDER in OAH Case No. 2019-ABC-03263 to the following parties.

By: CERTIFIED MAIL

Parent(s) of Student
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BY ELECTRONIC MAIL:

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255 Capitol Street NE
Salem, OR 97310-0203

CERTIFICATE OF MAILING

On March 27, 2020 I mailed the foregoing FINAL ORDER in OAH Case No. 2019-ABC-03263 to the following parties.

Anesia N Valihov
Hearing Coordinator
Office of Administrative Hearings