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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

██████, Student, by and through Parent ██████
██████

No. 12C-DP-039-ADE

Petitioners,

-v-

Kyrene Unified School District,

Respondent.

**ADMINISTRATIVE
LAW JUDGE DECISION**

HEARING: March 21, 2013

APPEARANCES: No one appeared for Petitioners; attorneys Erin Walz and Denise Lowell-Britt, UDALL SHUMWAY, appeared on behalf of the Kyrene Unified School District, accompanied by district representative Shari Dukes, Ph.D., Director of Exceptional Student Services. A certified court reporter was present.

WITNESSES: None

ADMINISTRATIVE LAW JUDGE: Eric A. Bryant

This matter was set for hearing on March 21-22, 2013. Those dates were chosen during a telephonic conference in January 2013 based on Parent's availability. The hearing was set to start at 8:30 AM on March 21, 2013. This time and date was confirmed with both parties during a telephonic conference held on March 13, 2013.

Respondent's counsel and representative appeared at the time and place for hearing. At 8:24 AM on March 21, 2013, Parent filed an electronic motion with this tribunal stating that she was withdrawing "from the case" because she has not been allowed to inspect and copy all of Student's records and therefore was not prepared to present all necessary evidence for her case. This statement is contradicted by this tribunal's ruling in a December 21, 2012, Minute Entry that "Respondent School District has met its obligations under the IDEA to allow Parent access to Student's educational records."

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 On the record on March 21, 2013, Respondent School District moved to dismiss
2 the matter with prejudice for Petitioners' failure to appear, present evidence, and meet
3 the burden of proving a violation of the IDEA. The record shows that during the
4 telephonic conference on March 13, 2013, Parent agreed to exchange a witness list
5 and exhibits with Respondent School District, as required by the IDEA, on March 14,
6 2013, between 4:00 PM and 5:30 PM at Respondent School District's counsel's offices.
7 On March 15, 2013, Respondent School District filed a notice with this tribunal that
8 Parent had not appeared during that time to make the exchange. Therefore,
9 Petitioners had no disclosed evidence to present at the hearing on March 21, 2013.

10 Good cause appearing, IT IS HEREBY ORDERED that this matter is **dismissed**
11 **with prejudice** for failure to prosecute the complaint and amended complaint.

12 Done this day, March 21, 2013.

13
14 /s/ Eric A. Bryant
15 Administrative Law Judge

16
17 **RIGHT TO SEEK JUDICIAL REVIEW**

18 Pursuant to 20 U.S.C. § 1415(i) and A.R.S. § 15-766(E)(3), this
19 Decision is the final decision at the administrative level. Furthermore, any
20 party aggrieved by the findings and decisions made herein has the right
21 to bring a civil action, with respect to the complaint presented, in any
22 State court of competent jurisdiction or in a district court of the United
23 States. Pursuant to Arizona Administrative Code § R7-2-405(H)(8), any
24 party may appeal the decision to a court of competent jurisdiction within
25 thirty-five (35) days of receipt of the decision.
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3 Copy sent by **electronic mail** and regular mail
this 21st day of March 2013, to:

4 Parent 

5 
6
7
8 Denise Lowell-Britt, Esq.
9 Erin Walz, Esq.
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19 By: Rosella Rodriguez
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