



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF HEARINGS AND APPEALS  
400 MARYLAND AVENUE, S.W.  
WASHINGTON, D.C. 20202-4616

TELEPHONE (202) 619-9700

FACSIMILE (202) 619-9726

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In the Matter of

**KAREN,**

**Docket No. 08-10-WA**  
Waiver Proceeding

Respondent

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### DISMISSAL

On October 10, 2008, the OFFICE OF HEARINGS & APPEALS (OHA) received Respondent's request for waiver of a debt in the above-captioned proceeding.<sup>1</sup> Respondent's request was in response to receipt of a Notice of Debt seeking repayment of \$6,054.52 in salary overpayments due to a negative leave balance of 322.45 hours. On October 10, 2008, Respondent's counsel requested additional time to obtain evidence supporting Respondent's request. On December 9, 2008, the presiding official issued an order requesting counsel to submit argument and evidence supporting Respondent's request by December 22, 2008. Due to an extended leave by the presiding official, this case remained on the docket of OHA until it was reassigned to me. I have reviewed the record.

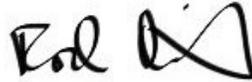
As a result of the aforementioned and consistent with the record in this case, the following findings are made: (1) Respondent owes a debt totaling \$6,054.52 in accordance with the Bill of Collection dated September 10, 2008; (2) Respondent filed a statement dated October 15, 2008 for the purpose of "preserv[ing Respondent's] right to a hearing pursuant to instructions provided by Ms. Sanchez, and to request additional time to provide proper documentation" related to Respondent's requests for leave, (3) that the presiding official issued an order on December 9, 2008 requiring Respondent to file by December 22, 2008 a written statement and supporting documentation indicating why a waiver should be granted, (4) that Respondent did not comply with the presiding official's order, and (5) that neither Respondent's counsel nor Respondent has provided any submission to OHA subsequent to filing the October 15, 2008 statement. Moreover, an email addressed to the undersigned from Stephanie L. Prather, a management and program analyst for the Department's Human Capital and Client Services group, dated July 7, 2011, indicated that the Department had no record of Respondent making

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<sup>1</sup> Greer Hoffman was assigned as the Waiver Official. On June 8, 2011, the case was reassigned to me.

arrangement to resolve her debt through means outside of the scope of this proceeding. On this basis, I conclude that this proceeding should be terminated for lack of diligence on the part of Respondent in pursuing the request for waiver in a timely manner; dismissal of this case is warranted. Therefore, any portion of the debt still owed may be collected. This decision operates as adjudication upon the merits, and constitutes a final agency decision.<sup>2</sup>

ACCORDINGLY, it is HEREBY ORDERED that this proceeding is DISMISSED with prejudice.



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Rod Dixon  
Waiver Official

Dated: July 15, 2011

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<sup>2</sup> The dismissal is with prejudice, and Respondent may not re-file a request for waiver on the same debt. *See, e.g., In re Donald*, Dkt. No. 06-70-WA, U.S. Dep't of Educ. (September 29, 2006); *Semtek International Inc., v. Lockheed Martin Corp.*, 531 U.S. 497 (2001) (under federal common law, a dismissal *with* prejudice directly relates to the jurisdiction of the dismissing tribunal).