



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF HEARINGS AND APPEALS  
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WASHINGTON, D.C. 20202-4616

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In the Matter of  
**SARA,**

**Docket No. 11-68-WA**  
Waiver Proceeding

Respondent

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### **DECISION DISMISSING CASE**

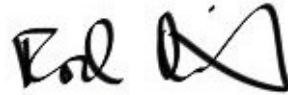
On October 17, 2010, Respondent requested a waiver of a debt in the above-captioned proceeding in response to receipt of a debt letter providing notice that the payroll office of the U.S. Department of Education identified an overpayment of salary to Respondent. Respondent did not identify the debt amount.

On October 24, 2011, the tribunal issued an Order Governing Proceedings requiring Respondent on or before **November 8, 2011**, to file a short statement, not to exceed five typewritten pages, that: (1) explains the circumstances of the overpayment to the best of your knowledge, (2) states why Respondent believes a waiver should be granted, (3) indicates what steps, if any, Respondent took to bring the matter to the attention of the appropriate official or supervisor and the agency's response, and (4) fully identifies and explains with reasonable specificity all the facts, documents, and sworn statements, if any, which support Respondent's position. As of December 3, 2011, Respondent has neither informed the tribunal that she decided to repay the debt and, therefore, was withdrawing the waiver request, nor submitted any documentation showing why she believes a waiver should be granted.

Although in Respondent's October 17, 2011 letter Respondent argues that she maintained unused hours in her sick leave account, Respondent provides no evidence from which to determine whether that account should reduce the negative annual leave account balance. Most important, Respondent's failure to respond to the tribunal's order leaves the record insufficient to rule in Respondent's favor. Respondent has not provided a sufficient basis to obtain waiver of

Respondent's debt. This decision operates as adjudication upon the merits, and constitutes a final agency decision.<sup>1</sup>

Accordingly, it is **HEREBY ORDERED** that the stay of collection is **LIFTED** and this proceeding is **DISMISSED** with prejudice.



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Rod Dixon  
Waiver Official

Dated: December 5, 2011

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<sup>1</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).