

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA



FILED
OSAH
OCT 29 2013

K. Westray
Kevin Westray, Legal Assistant

[Redacted]

Petitioner,

v.

GWINNETT COUNTY SCHOOL
DISTRICT,

Respondent.

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Docket No.:
OSAH-DOE-SE-[Redacted]-67-SCHROER

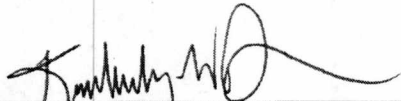
ORDER OF DISMISSAL

On October 25, 2013, Petitioner's mother sent a letter to the Court's Calendar Clerk, indicating that she wished to withdraw, without prejudice, her request for a due process hearing, which is currently scheduled for November 18, 2013. Under the rules adopted by the Georgia Department of Education ("Ga. DOE"), Petitioner is entitled to file a motion for voluntary dismissal until five days before the scheduled hearing date. Ga. Comp. R. & Reg. 616-1-2-12(m). However, Petitioner must show good cause in order to obtain a dismissal without prejudice. Id. In addition, although the Ga. DOE Rule's allow the School District five days from the filing of a motion for voluntary dismissal to file a response, Petitioner's mother did not indicate whether, or when, she served a copy of her letter on Respondent Gwinnett County School District, as required by OSAH Rule 11. Id. See also Ga. Comp. R. & Reg. 6161-1-2-11(1).

Accordingly, the Court hereby orders that Petitioner's due process complaint be **DISMISSED**. The Calendar Clerk shall remove the November 18, 2013 due process hearing from the Court's calendar. In addition, unless Petitioner's mother files a pleading within ten days of the date of this order, which complies with OSAH Rule 11 regarding service on the School District and provides an explanation for why the dismissal should be without prejudice, the dismissal will be

with prejudice and the file will be closed without further order of this Court. If Petitioner's mother files a timely pleading, the School District shall have five days to file a response. The Court will consider the positions of the parties and issue an amended order of dismissal, if appropriate.

SO ORDERED, this 29th day of October, 2013.



KIMBERLY W. SCHROER
Administrative Law Judge