

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS STATE OF GEORGIA

D.K.,

Plaintiff,

Docket No.:

OSAH-DOE-CPEXP-

FULTON COUNTY SCHOOL

DISTRICT.

Defendant.

DISMISSAL ORDER

On March 28, 2014, the Georgia Department of Education ("DOE") filed an OSAH Form 1 with the Office of State Administrative Hearings ("OSAH"), which attached a due process hearing request form signed by A.K., Plaintiff D.K.'s mother. DOE indicated on the OSAH Form 1 that the complaint was served on the defendant on March 27, 2014. The due process request form included a notice that the initiating party must file the request with the local school superintendent. This notice is consistent with DOE's rule, which provides that "[t]he party filing a due process hearing request must provide a copy to the other party and the state." Ga. Comp. R. & Reg. 160-4-7-.12(3)(d)(1). When a parent is the initiating party, DOE rules provide that the parent must provide a copy to the school district's superintendent at the same time they serve the state. Id.

On April 3, 2014, Defendant Fulton County School District ("School District") filed a Notice of Failure of Plaintiff to Serve District with Complaint and Request that All Deadlines be Stayed Until Service is Complete ("Notice and Request"). In the School District's Notice and Request, counsel for the School District informed the Court that the superintendent had not been served with a copy of the complaint as provided in DOE's rules. The School District's request was granted and Plaintiff was given ten days to show that he had served the School District's

superintendent or his authorized agent with the complaint (i.e. due process hearing request). The ten days have elapsed and Plaintiff has not shown that he has complied with the service requirement. Accordingly, this matter is **DISMISSED without prejudice**.

SO ORDERED, this 18th day of April, 2014.

STEPHANIE M. HOWEI

Administrative Law Judge