

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CONEJO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090364

ORDER OF DISMISSAL

SEPTEMBER 24, 2021

On September 10, 2021, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH. Student did not properly serve the complaint on the respondent Conejo Valley Unified School District. The proof of service attached to the complaint indicated that service had been effected via email. Email is not an authorized form of service in special education due process proceedings before OAH.

Title 5 of the California Code of Regulations, Section 3083, subsection (b), which governs service in OAH special education due process proceeding, explicitly states: "Unless a provision specifies the form of mail, service or notice by mail may be by first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile

transmission if complete and without error, or by other electronic means as provided by regulation, in the discretion of the sender.”

On September 20, 2021 Conejo Valley filed a motion to dismiss for failure to serve the complaint. On September 24, 2021, Student opposed. Student argued that Conejo Valley had “accepted and acknowledged electronic service of the complaint.” However, the September 16, 2021 email Student submitted to support that contention, in fact, states the opposite. In that email, Conejo Valley explicitly and unambiguously stated that electronic service was improper. Student also argues that Conejo Valley itself served documents electronically in this case. This argument lacks credibility, as the documents Conejo Valley served electronically were also served via US mail, as required by the regulation. Student cites Orders in two other OAH cases, Case Nos. 2021090391 and 2021090361, in support of this argument. However, those Orders are inapposite here, because in those cases the local educational agencies had served various documents themselves solely by email, which is not the case here. Moreover, OAH orders are not precedential authority. This matter is therefore hereby dismissed.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "June Lehrman".

June Lehrman

Administrative Law Judge

Office of Administrative Hearings