BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

V.

ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2026090694

ORDER FOLLOWING PREHEARING CONFERENCE, GRANTING MOTION TO RESET THE TIMELINE, DENYING MOTION TO DISMISS, AND DENYING MOTION TO CONTINUE AS MOOT.

OCTOBER 26, 2026

On October 26, 2026, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Diana Renteria appeared on behalf of Student. Rebal R. Halabi-Boutros appeared on behalf of Elk Grove Unified School District, called Elk Grove. The PHC was

recorded. Based upon the discussion with the parties, the ALJ issues the following order:

MOTION TO DISMISS OR, ALTERNATIVELY, RESET THE PROCEDURAL TIMELINES

On September 15, 2026, Student filed a due process hearing request with the OAH, naming Elk Grove Unified School District, called Eld Grove. On September 17, 2026, OAH issued a Scheduling Order, setting a prehearing conference for October 26,, 2026, and the due process hearing for November 3, 4, and 5, 2026.

On October 21, 2026, Elk Grove filed a motion to dismiss Student's complaint for failure to properly serve the complaint or, in the alternative, reset the procedural timelines. Elk Grove also filed a motion to continue the hearing, because its counsel has a conflict with another due process hearing in an earlier filed due process matter. The motions were supported by the declarations of Elk Grove's attorney and exhibits. Student did not file a prehearing conference statement or respond to the motions.

Elk Grove asserted that the attempted service of the Complaint was defective because the Proof of Service declaration, signed by James D. Peters, III, under penalty of perjury, stated he personally served a copy of the complaint by emailing it to Elk Grove's district superintendent, David Reilly. As indicated in Mr. Reilly's supporting declaration, he did not receive an email from Mr. Peters. Elk Grove did not receive Student's complaint by mail, fax, or in-person. Mr. Reilly also declared that no one from Student's counsel's offices had ever contacted him, or any other Elk Grove staff, to request permission to serve the complaint by email. Also, the Proof of Service declaration, signed by Mr. Peters, stated that the complaint was served on July 20, 2026, though the complaint was signed by attorney Diana Renteria in September 2026.

Title 20 United States Code section 1415(b)(7)(A) requires that the party requesting the due process hearing serve a copy of the complaint on the opposing party. The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section1415(b)(7)(A). (20 U.S.C. § 1415(c)(2)(A).) The named parties have the right to challenge the complaint's sufficiency within 15 days of receiving the due process complaint. (20 U.S.C. § 1415(b) & (c).) A local educational agency is required to meet with the parents and Student's relevant Individualized Education Program team members within 15 days of receiving Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006).)

Serving a document may be done by mail or in-person. (OAH Special Education Handbook, p.40.) A document may be served by fax or e-mail if the other party has agreed in advance to accept service in one of those ways. (*Id*; Code of Civ. Proc. 1010.6, subd. (c).) Service must be made by a method that ensures receipt by all parties and the agency or nonprofit organization or entity that is responsible for conducting due process hearings in a comparable and timely manner. (Cal. Cod. Regs., Tit 5,§ 3083 (c).) Strict compliance with service guidelines is critical when the service is intended to exercise jurisdiction over the responding party.

Here. Student did not properly serve the request for due process, which was intended to gain jurisdiction over the respondent Elk Grove. The proof of service declaration, signed by James D. Peter, stated Mr. Peters served the due process request upon Elk Grove by emailing the superintendent. Student's counsel did not first obtain permission to serve the complaint by a means other than by mail or in person. The evidence established that Mr. Peters did not email the complaint to the superintendent. Also, Mr. Peters signed the proof of service declaration on September 15, 2026, but the proof of services stated Mr. Peters served the due process request on July 20, 2026.

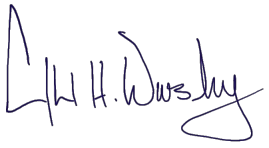
Student's attempted service was defective and did not exercise jurisdiction over Elk Grove. The motion to reset the timelines is granted.

Since the presently scheduled hearing dates are being vacated, Elk Grove's motion to continue is denied, as moot.

ORDER

1. Elk Grove Unified School District's motion dismiss is denied, as moot.
2. Elk Grove Unified School District's motion to reset the timeline is granted.
3. All presently scheduled dates are vacated.
4. The timeline is reset, as if Student's complaint was filed on the date of this Order.
5. OAH shall issue a new scheduling order, consistent with the resetting of the timeline.

IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings