BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017080513 ORDER DENYING PEREMPTORY CHALLENGE

On March 19, 2018, Student filed a notice of peremptory challenge to Administrative Law Judge Cole Dalton in the above captioned matter. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act, and California Code of Regulations, title 1, section 1034.

Government Code section 11425.40, subdivision (d), establishes the criteria for disqualification of the presiding officer. A party is entitled to one peremptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).)

Student's peremptory challenge is untimely made and denied pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivisions (c) and (e). Student contends that Student was not given written notice of the ALJ's assignment. Counsel admits she knows that OAH may change ALJ's assigned to a hearing and that she reviewed the OAH calendar. OAH telephoned the parties on March 15, 2018, informing them that ALJ Dalton was assigned to the hearing. OAH's call to inform the parties' of the change of ALJ assignment is merely a courtesy as pursuant to California Code of Regulations, title 1, section 1034, subdivision (f), the obligation is on Student to check the assignment.

ORDER

Student's challenge of ALJ Dalton is denied. All dates previously set in this matter will remain on calendar.

DATE: March 19, 2018

DocuSigned by:
Marian H. Tully
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MARIAN H. TULLY
Presiding Administrative Law Judge
Office of Administrative Hearings