BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. TEMECULA VALLEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016100111
TEMECULA VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016120478 ORDER DENYING TEMECULA VALLEY UNIFIED SCHOOL DISTRICT'S PEREMPTORY CHALLENGE

On April 10, 2017, Temecula Valley Unified School District filed a peremptory challenge seeking to disqualify Administrative Law Judge Paul Kamoroff from hearing this case. District'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. On April 11, 2017, Student filed an objection to District's challenge.

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).) In no event will a peremptory challenge be allowed if it is made after the hearing has commenced. In addition, if at the time of a scheduled prehearing conference, an ALJ has been assigned to the Hearing, any challenge to the assigned ALJ shall be made no later than commencement of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) A peremptory challenge is not allowed on reconsideration or remand, and cannot be made after a hearing has begun. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

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). District contended that its peremptory challenge was

timely as its counsel was not made aware of ALJ Kamoroff's assignment until Monday as the phone call of April 6, 2017, to inform counsel of the assignment change was left on counsel's voicemail who was out of the office last week. However, 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 District to check the assignment. Accordingly, District's peremptory challenge is denied.

ORDER

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

IT IS SO ORDERED.

DATE: April 11, 2017

DocuSigned by:
Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings