BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ENCINITAS UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022060874

ORDER GRANTING PEREMPTORY CHALLENGE

OCTOBER 6, 2022

On October 5, 2022, Encinitas Union School District filed a notice of peremptory challenge to Administrative Law Judge R. Martin in the above captioned matter. The 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).) 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. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

The peremptory challenge is timely made and is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. Encinitas' challenge of ALJ R. Martin is granted.
2. All dates previously set in this matter will remain on calendar.

IT IS SO ORDERED.

Margaret Gibson
Margaret Gibson (Oct 6, 2022 09:51 PDT)

Margaret Gibson
Presiding Administrative Law Judge
Office of Administrative Hearings