BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>NEW HAVEN UNIFIED SCHOOL DISTRICT. | OAH Case No. 2017050260<br><br>ORDER GRANTING/DENYING PEREMPTORY CHALLENGE/CHALLENGE FOR CAUSE/REQUEST FOR RECUSAL |

On September 1, 2017, New Haven Elementary School District filed a notice of peremptory challenge to Administrative Law Judge Rita Defilippis. The matter was reassigned to ALJ Penelope Pahl. Student then filed a notice of peremptory challenge to ALJ Pahl. Both peremptory challenges are 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, and cannot be made after a hearing has begun. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

Both peremptory challenges are timely made and are granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter is reassigned to ALJ Theresa Ravandi.

IT IS SO ORDERED.

DATE: September 1, 2017

DocuSigned by:
Margaret Gibson
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MARGARET GIBSON
Presiding Administrative Law Judge
Office of Administrative Hearings