BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025050387

ORDER DENYING REQUEST FOR RECONSIDERATION

JUNE 23, 2025

On June 19, 2025, the undersigned Presiding Administrative Law Judge issued an order granting Mt. Diablo's peremptory challenge of Administrative Law Judge Thanayi Lindsey. An Administrative Law Judge is referred to as an ALJ.

On June 19, 2025, Student filed a motion to deny the peremptory challenge, arguing that Mt. Diablo's peremptory challenge was untimely and should have been denied. On June 20, 2025, Mt. Diablo filed an opposition.

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time, generally within ten days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking

reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

On June 16, 2025, ALJ Jeanie Min held a prehearing conference, or PHC, for a due process hearing set for June 24, 25, and 26, 2025. On June 17, 2025, OAH issued ALJ Min's Order Following PHC.

Subsequently, ALJ Min became unavailable to conduct the hearing as scheduled. Accordingly, on June 18, 2025, OAH reassigned the hearing to ALJ Lindsey. On June 18, 2025, OAH staff informed the parties of the reassignment of the hearing to ALJ Lindsey. Later, that same day, Mt. Diablo filed and served on Student a peremptory challenge as to ALJ Lindsey. On June 19, 2025, the parties were notified that OAH granted Mt. Diablo's peremptory challenge as to ALJ Lindsey, and an order issued that same day.

Student's June 19, 2025, request to deny the peremptory challenge, taken as a motion for reconsideration, was timely filed but offered no new facts, circumstances or law to support reconsideration of OAH's Order granting the peremptory challenge of ALJ Lindsey.

Student erroneously believed that Mt. Diablo's peremptory challenge was untimely, as it was made after the PHC, held by ALJ Min. However, Mt. Diablo did not challenge ALJ Min. Mt. Diablo challenged the newly assigned judge, ALJ Lindsey.

Once a matter is reassigned, any party who had not previously made a peremptory challenge, is allowed to make such a challenge. Where, as here, the matter is reassigned after the PHC, any party who has not already made a peremptory challenge may challenge the newly assigned ALJ until such time as the hearing starts.

A party is entitled to one peremptory challenge, also called disqualification without cause, to an ALJ assigned to an OAH hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) A peremptory challenge is not allowed if made after the hearing starts. 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 must be made no later than the start of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) Student has cited no legal authority opposing these basic legal tenets.

Here, neither party challenged ALJ Min. Rather, Mt. Diablo challenged ALJ Lindsey, who was reassigned to this matter after the PHC.

Mt. Diablo made its first and only peremptory challenge as to ALJ Lindsey before the due process hearing started. Hence, the challenge was timely and properly made.

ORDER

Student has not established the June 19, 2025, Order should be reconsidered. The motion for reconsideration is denied. All dates set in this matter are confirmed.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Presiding Administrative Law Judge
Office of Administrative Hearings