BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018081191
v.	ORDER GRANTING PEREMPTORY CHALLENGES
LAKESIDE JOINT SCHOOL DISTRICT .	

On October 15, 2018, Student filed a notice of peremptory challenge to Administrative Law Judge Charles Marson. Student's peremptory challenge was made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act, and California Code of Regulations, title 1, section 1034. The parties were notified that the motion was granted with this written order to follow and informing them the matter was reassigned to ALJ Penelope Pahl. Thereafter, Lakeside Joint School District filed a notice of peremptory challenge to ALJ Pahl. The parties were then notified that Lakeside's motion was also granted with this written order to follow and informing them the matter was reassigned to ALJ Rita Defilippis. Thereafter, the matter proceeded to a prehearing conference.

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 and Lakeside's peremptory challenges were timely made and granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

IT IS SO ORDERED.

DATE: October 16, 2018

DocuSigned by:
Joy Redmon
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JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings