BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CLEAR PASSAGE EDUCATIONAL CENTER.

OAH CASE NUMBER 2020090447

ORDER DENYING CLEAR PASSAGE EDUCATIONAL CENTER'S PEREMPTORY CHALLENGE

DECEMBER 14, 2020

On December 14, 2020, Clear Passage Educational Center filed a notice of peremptory challenge to Administrative Law Judge Cara Lucier in the above captioned matter. Clear Passage Educational Center'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.

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).)

Clear Passage Educational Center's peremptory challenge is denied as this is Clear Passage Educational Center second peremptory challenge, the first filed with and granted by OAH on October 26, 2020, and also not timely made, pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivisions (a), (b) and (e).

ORDER

1. Clear Passage Educational Center's challenge of ALJ Lucier is denied.
2. All dates previously set in this matter will remain on calendar.

IT IS SO ORDERED.

Peter Paul Castillo

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings