BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013031004
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013040364 and OAH CASE NO. 20130060755 ORDER GRANTING PEREMPTORY CHALLENGE

On August 9, 2013, Student filed a peremptory seeking to disqualify Administrative Law Judge (ALJ) Charles Marson from hearing the above-captioned consolidated matters. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), 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 (OAH) 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 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. Student's challenge of ALJ Charles Marson is granted.

2. ALJ Elsa Jones is assigned to this matter and will convene the PHC at 3:00 p.m., August 9, 2013.

Dated: August 9, 2013

/s/
JUDITH KOPECK
Division Presiding Administrative Law Judge
Office of Administrative Hearings