BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024110598

ORDER DENYING DISTRICT'S PEREMPTORY CHALLENGE

JANUARY 3, 2025

On January 3, 2025, Del Norte County Unified School District filed a notice of peremptory challenge with the Office of Administrative Hearings, called OAH, to Administrative Law Judge Cara Lucier. An Administrative Law Judge is called ALJ. Del Norte'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, 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).) A peremptory challenge is not allowed on reconsideration or remand. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

If the hearing is to be held at an OAH regional office, the peremptory challenge must be made no later than two business days before the hearing. (Cal. Code Regs., tit. 1, § 1034, subd. (d).) If the hearing is to be held at a site other than an OAH regional office, the peremptory challenge must be made by noon on the Friday before the hearing. (Cal. Code Regs., tit. 1, § 1034, subd. (e).)

Del Norte's peremptory challenge is not timely made and is denied. ALJ Chris Butchko convened a prehearing conference with the parties on December 27, 2024. On Thursday, January 2, 2025, at approximately 12:37 PM, OAH reassigned the case to ALJ Cara Lucier, and the new assignment was simultaneously reflected on OAH's public calendar. On Thursday, January 2, 2025, at approximately 12:53 PM, OAH called the parties and informed them of ALJ Lucier's assignment.

Del Norte did not file its peremptory challenge until after noon on Friday, January 3, 2025, nearly 24 hours after being informed of ALJ Lucier's assignment. The videoconference due process hearing is set to begin on Tuesday, January 7, 2025. Title 1, California Code of Regulations section 1034, subdivision (e) required the parties to file

a peremptory challenge by noon on Friday, January 3, 2025. Del Norte did not meet this deadline. Therefore, ALJ Lucier remains assigned to the case and all scheduled dates remain on calendar.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Presiding Administrative Law Judge

Office of Administrative Hearings