BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019110836

ORDER DENYING PEREMPTORY CHALLENGE

AUGUST 14, 2020

On August 14, 2020, at 1:25 PM, Bellflower filed a notice of peremptory challenge to Administrative Law Judge Rita Defilippis. ALJ Defilippis was assigned to the matter on Wednesday, August 12, 2020. The due process hearing is scheduled to commence on Tuesday, August 18, 2020, via videoconference and not at an OAH regional office. The Office of Administrative Hearings notified both parties of ALJ Defilippis' assignment via a courtesy telephone call before 9 AM on Thursday, August 13, 2020.

Bellflower'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).) Additionally, if the hearing is to be held at a site other than an OAH regional office, the peremptory challenge shall be made by noon on the Friday prior to the week in which the hearing is to commence. (Cal. Code Regs., tit. 1, § 1034, subd. (e).) A peremptory challenge is not allowed on reconsideration or remand. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

Bellflower's peremptory challenge was not timely made as it was filed after noon the Friday before the hearing is scheduled to commence. OAH's external calendar provides official notice to the parties of ALJ assignment changes. Additionally, in this case, both parties received a courtesy call notifying them of the change more than 24 hours before the deadline to exercise the challenge.

ORDER

1. Bellflower's challenge of ALJ Defilippis is denied.
2. All dates previously set in this matter will remain on calendar.

IT IS SO ORDERED.

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Joy Redmon
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Joy Redmon
Presiding Administrative Law Judge
Office of Administrative Hearings