

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:
ROSEDALE UNION SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,
OAH CASE NUMBER 2019110885

and

PARENT ON BEHALF OF STUDENT,

v.

ROSEDALE UNION SCHOOL DISTRICT AND KERN COUNTY
SUPERINTENDENT OF SCHOOLS,
OAH CASE NUMBER 2019100374

ORDER DENYING PEREMPTORY CHALLENGE

On January 6, 2020, Rosedale Union School District, filed a notice of peremptory challenge to Administrative Law Judge Laurie Gorsline in the above captioned matter.

Rosedale'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. Student opposed Rosedale's peremptory challenge on January 7, 2020, on the grounds the challenge was untimely.

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).)

ALJ Gorsline held prehearing conferences on November 22, and November 25, 2019, and issued an Order Following Prehearing Conference in the consolidated cases on November 27, 2019. Rosedale's attempt to exercise a peremptory challenge after a prehearing conference before ALJ Gorsline is untimely.

Rosedale's peremptory challenge is not timely and is denied pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. Rosedale's challenge of ALJ Laurie Gorsline is denied.

2. The prehearing conference currently scheduled on January 10, 2020, at 3:00 PM and all dates previously set in this matter will remain on calendar.

IT IS SO ORDERED.

DATED: January 07, 2020

Marian H. Tully
Presiding Administrative Law Judge
Office of Administrative Hearings