

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
RAMONA UNIFIED SCHOOL DISTRICT ,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021120316

ORDER DENYING RAMONA UNIFIED SCHOOL DISTRICT'S
PEREMPTORY CHALLENGE

JANUARY 28, 2022

On January 28, 2022, Ramona Unified School District filed a notice of peremptory challenge to Administrative Law Judge Cararea Lucier in the above captioned matter to prevent her from being the mediator in this matter. Ramona'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, and not does not cover an ALJ assigned to a mediation. (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).)

The regulation governing peremptory challenges does not apply to mediations. Mediators are assigned based on OAH's operational needs. Mediations are voluntary and a party may decline to participate in mediation if it so chooses. However, OAH reserves the right not to schedule another mediation if a party cancels a mediation because they wish for OAH to assign another mediator. Accordingly, Ramona's challenge is denied.

ORDER

Ramona's challenge of ALJ Lucier is denied.

IT IS SO ORDERED.

Peter Paul Castillo

Peter Paul Castillo

Presiding Administrative Law Judge

Office of Administrative Hearings