BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: TRACY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017010024 ORDER DENYING PEREMPTORY CHALLENGE

On March 23, 2017, Student filed a notice of peremptory challenge to Administrative Law Judge Rebecca Freie in the above captioned matter. Student'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).) 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 not timely made and is denied pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c). ALJ Freie has already presided over two prehearing conferences in this matter.

IT IS SO ORDERED.

DATE: March 24, 2017

DocuSigned by:
Margaret Broussard
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MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings