BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MILPITAS UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100006 ORDER GRANTING PEREMPTORY CHALLENGE

On October 18, 2018, the parties were notified that Administrative Law Judge Penelope Pahl was assigned to this matter. The same day, Milpitas Unified School District filed a notice of peremptory challenge to ALJ Pahl. Milpitas' 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).)

Milpitas' peremptory challenge is timely given when it received notice of ALJ Pahl's assignment. Accordingly, Milpitas' challenge is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter is now assigned to ALJ Laurie Gorsline.

IT IS SO ORDERED.

DATE: October 19, 2018

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