BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

PLEASANTON UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2024041122

OAH CASE NUMBER 2023120389

ORDER DENYING PEREMPTORY CHALLENGE

AUGUST 13, 2024

On August 12, 2024, Student filed a notice of peremptory challenge with the Office of Administrative Hearings, called OAH, to Administrative Law Judge Charles Marson. An Administrative Law Judge is called ALJ. 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, also called disqualification without cause, to an ALJ assigned to an OAH hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) A

peremptory challenge is not allowed if made after the hearing starts. In addition, if at the time of a prehearing conference, an ALJ has been assigned to the hearing, any challenge to the assigned ALJ must be made no later than the start 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).)

This matter was originally assigned to ALJ Claire Yazigi. ALJ Yazigi became unavailable, and the matter was reassigned to ALJ Marson on Thursday, August 8, 2024. As the matter was reassigned after the prehearing conference, both parties had an opportunity to exercise a timely challenge. If the hearing is to be held at an OAH regional office, the peremptory challenge must be made no later than two business days before the hearing. (Cal. Code Regs., tit. 1, § 1034, subd. (d).) If the hearing is to be held at a site other than an OAH regional office, the peremptory challenge must be made by noon on the Friday before the hearing. (Cal. Code Regs., tit. 1, § 1034, subd. (e).)

OAH's public calendar, which constitutes official notice of the ALJ change, was updated at approximately noon on August 8, 2024. As an additional courtesy, the assigned case manager called to notify the parties of the change between 2:00 and 2:30PM on August 8, 2024. The case manager left a voice mail for Pleasanton's counsel. Student's counsel was called twice but there was no answer and no voice mail connected. Again, parties are on notice that OAH's public calendar is official notice of the ALJ assignments.

Student's peremptory challenge, submitted Monday, August 12, 2024, is untimely and DENIED.

IT IS SO ORDERED.

Joy Redmon

Joy Redmon
Presiding Administrative Law Judge
Office of Administrative Hearings