

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

SAN DIEGO UNIFIED SCHOOL DISTRICT  
PARENT ON BEHALF OF STUDENT,

v.

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PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015080848

OAH Case No. 2015060967

ORDER GRANTING PEREMPTORY  
CHALLENGE

On October 8, 2015, Student filed a peremptory challenge seeking to disqualify Administrative Law Judge Judith Pasewark from hearing this case. Student's peremptory challenge was 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).)

District's peremptory challenge is timely made and is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. District's challenge of ALJ Pasewark is granted. This case is assigned for all purposes to ALJ Darrell Lepkowsky.
2. The matter will proceed as previously scheduled.

DATE: October 8, 2015

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings