

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2014080546
LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2014071061 ORDER DENYING PEREMPTORY CHALLENGE

On October 6, 2014, Los Angeles Unified School District made a peremptory challenge after the commencement of the Prehearing Conference and then filed on the same day with the Office of Administrative Hearings a peremptory challenge seeking to disqualify Administrative Law Judge Paul H. Kamoroff from hearing this case. District'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 OAH hearing. (Cal. Code Regs., tit. 1, § 1034, subs. (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 was not timely made as District made the request on the record after the commencement of the PHC. District had notice of ALJ Kamoroff's assignment to this matter in the September 16, 2014 continuance order. Therefore, District's

peremptory challenge is DENIED pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

IT IS SO ORDERED.

DATE: October 7, 2014

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings