

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2008100500

ORDER GRANTING PEREMPTORY  
CHALLENGE

On October 5, 2009, counsel for Student filed with the Office of Administrative Hearings, Special Education Division (OAH) a Request for Peremptory Challenge seeking to disqualify Administrative Law Judge (ALJ) Susan Ruff from hearing this case.

Garden Grove Unified School District has not responded to this challenge.

Due process requires an impartial tribunal for administrative hearings. To help meet this requirement, the Administrative Procedure Act (Gov. Code, § 11400 et seq.) permits a party to seek disqualification of an ALJ or other presiding officer from hearing an administrative case. Government Code section 11425.40 establishes two methods by which a party can seek disqualification of an ALJ – peremptory challenge and challenge for cause.

Government Code section 11425.40, subdivision (d), and California Code of Regulations, title 1, section 1034, permit a party to make one peremptory challenge (disqualification without cause) of an ALJ assigned to an OAH hearing, provided that the challenge is timely made. To be effective, the peremptory challenge must be: (1) directed to the Presiding Administrative Law Judge; (2) filed by a party, attorney or authorized representative; (3) made in writing or orally on the record in substantially the form set forth in the regulation (Cal. Code Regs., tit. 1, § 1034, subd. (b)(3)); (4) served on all parties if made in writing; and (5) filed within the required time limits. (Cal. Code Regs., tit. 1, §1034.)

Student’s peremptory challenge of ALJ Ruff meets the foregoing standards, and shall be granted.

ORDER

1. The Peremptory Challenge by Student of Administrative Law Judge Susan Ruff is granted.

2. All dates previously set in this matter will remain on calendar.

Dated: October 07, 2009

/s/

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TIMOTHY L. NEWLOVE  
Presiding Administrative Law Judge  
Office of Administrative Hearings