

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SULPHUR SPRINGS UNION SCHOOL
DISTRICT, WILLIAM S. HART UNION
HIGH SCHOOL DISTRICT AND LOS
ANGELES COUNTY MENTAL HEALTH.

OAH CASE NO. 2009020496

ORDER GRANTING PEREMPTORY
CHALLENGE

On April 10, 2009, Student filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Stella Owens-Murrell from hearing this case.

APPLICABLE LAW AND DISCUSSION

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.)

The time limits for making a peremptory challenge are set forth in California Code of Regulations, title 1, section 1034, subdivisions (c), (d), and (e):

(c) 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.

(d) Except as provided in (c), if the Hearing is to be held at an OAH regional office, the peremptory challenge of the assigned ALJ shall be made no later than 2 business days before the Hearing.

(e) Except as provided in (c), if the Hearing is to be held at a site other than an OAH regional office, the preemptory challenge of the assigned ALJ shall be made by noon on Friday prior to the week in which the Hearing is to commence.

Student filed a timely challenge and served the parties. ALJ Carla L. Garrett is assigned to this matter.

ORDER

Student's challenge of ALJ Owens-Murrell is granted.

Dated: April 10, 2009

/s/

JUDITH A. KOPEC
Administrative Law Judge
Office of Administrative Hearings