

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS on behalf of STUDENT,

vs.

EXETER UNION ELEMENTARY SCHOOL
DISTRICT,

OAH CASE NO. 2009081099

EXETER UNION ELEMENTARY SCHOOL
DISTRICT,

vs.

PARENTS on behalf of STUDENT.

OAH CASE NO. 2009040443

ORDER GRANTING PEREMPTORY
CHALLENGE

On October 14, 2009, Timothy Adams, attorney for Student, filed a notice of peremptory challenge to Administrative Law Judge (ALJ) Stella Owens-Murrell in the above captioned matter. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), 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 (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).)

Student's peremptory challenge to ALJ Owens-Murrell is timely made before the prehearing conference and is granted.

IT IS SO ORDERED

Dated: October 14, 2009

/s/

ANN F. MACMURRAY
Presiding Administrative Law Judge
Office of Administrative Hearings