

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CORNING UNION ELEMENTARY
SCHOOL DISTRICT.

OAH CASE NO. 2010090053

ORDER GRANTING PEREMPTORY
CHALLENGE

On February 16, 2011, Christian M. Knox, Attorney for Student, filed a notice of peremptory challenge to Administrative Law Judge (ALJ) Adeniyi Ayoade 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).) 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).)

Student'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. Student's challenge of ALJ Ayoade is granted.
2. ALJ Charles Marson is assigned to this matter.
3. The previously set prehearing conference scheduled for today, February 16, 2011, at 1:30 p.m., is continued to 3:00 p.m. OAH will initiate the call.

IT IS SO ORDERED.

Dated: February 16, 2011

/s/

TROY TAIRA
Presiding Administrative Law Judge
Office of Administrative Hearings