

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT, ET AL.

OAH CASE NO. 2011010573

ORDER GRANTING STUDENT'S
PEREMPTORY CHALLENGE

On June 1, 2011, counsel for Student filed with the Office of Administrative Hearings (OAH) a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Susan Ruff from hearing this case. The remaining parties in the case have not filed a response to this peremptory challenge.

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, subds. (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 meets the foregoing standards 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 peremptory challenge of ALJ Susan Ruff is granted.
2. All due process hearing dates previously set in this matter will remain on calendar. The prehearing conference in the matter, currently set for June 1, 2011, at 10:30 a.m., is hereby continued to Friday, June 3, 2011, at 10:00 a.m. OAH shall initiate the conference call. ALJ Elsa Jones is assigned as the hearing judge in the matter.

Dated: June 01, 2011

/s/

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