

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED  
SCHOOL DISTRICT; RIVERSIDE  
COUNTY DEPARTMENT OF MENTAL  
HEALTH.

OAH CASE NO. 2011010573

ORDER GRANTING PEREMPTORY  
CHALLENGE

On May 31, 2011, counsel for the Riverside County Department of Mental Health filed with the Office of Administrative Hearings (OAH) a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Judith Pasewark from hearing this case. The other parties in the case have not filed a response to the 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, 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 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. The peremptory challenge of ALJ Judith Pasewark by the Riverside County Department of Mental Health is granted.
2. All dates previously set in this matter will remain on calendar.

Dated: May 31, 2011

/s/

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