

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

TWIN RIVERS UNIFIED SCHOOL  
DISTRICTS,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011020609

ORDER GRANTING STUDENT'S  
PEREMPTORY CHALLENGE

On May 20, 2011, Steven Berniker, attorney for Student, filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Troy Taira from hearing this case. ALJ Taira had been assigned to hear this case on May 20, 2011, and had not previously conducted any proceeding in this matter. The due process hearing was set to start on May 23, 2011.

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, subdivision (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter has been reassigned to ALJ Adeniyi Ayoade.

IT IS SO ORDERED.

Dated: May 23, 2011

/s/

BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings