

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL  
DISTRICTS.

OAH CASE NO. 2011020840

ORDER DENYING STUDENT'S  
PEREMPTORY CHALLENGE

On August 29, 2011, Steven H. Berniker, attorney for Student, filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Peter Paul Castillo from hearing this case.

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 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).)

On August 17, 2011, ALJ Castillo conducted a prehearing conference in this matter. Counsel for Student participated in the conference and did not present a peremptory challenge to ALJ Castillo. Student's August 29, 2011 peremptory challenge is not timely and is denied.

IT IS SO ORDERED.

Dated: August 29, 2011

/s/

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BOB VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings