

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011110056

v.

EXETER UNION SCHOOL DISTRICT AND  
TULARE COUNTY OFFICE OF  
EDUCATION,

EXETER UNION SCHOOL DISTRICT,

OAH CASE NO. 2011110529

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S  
PEREMPTORY CHALLENGE

On April 2, 2012, a prehearing conference (PHC) was held in this matter before Administrative Law Judge (ALJ) Charles Marson. Following the PHC the matter was reassigned to ALJ Gary A. Geren and the parties were notified on April 9, 2012. On April 10, 2012, Timothy A. Adams, attorney for Student, filed a peremptory challenge seeking to disqualify ALJ Geren from hearing this case. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

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).)

Because OAH reassigned the matter following the PHC, Student's peremptory challenge is timely made and is granted pursuant to Government Code section 11425.40,

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

IT IS SO ORDERED.

Dated: April 10, 2012

/s/

---

BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings