

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SOLANA BEACH UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011110534

ORDER GRANTING STUDENT'S
PEREMPTORY CHALLENGE

On March 12, 2012, Student filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Susan Ruff 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 (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, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

1. Student's challenge of ALJ Ruff is granted.
2. ALJ Eileen Cohn is now assigned to conduct the prehearing conference and due process hearing in this matter. All dates previously set in this matter will remain on calendar.

Dated: March 12, 2012

/s/

CARLA L GARRETT
Administrative Law Judge
Office of Administrative Hearings