

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MANHATTAN BEACH UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012070159

ORDER GRANTING STUDENT'S
PEREMPTORY CHALLENGE

On September 7, 2012, Student filed a peremptory challenge, seeking to disqualify Administrative Law Judge (ALJ) Carla L. Garrett from hearing this case.

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).)

Here, ALJ Garrett was assigned after the prehearing conference. Accordingly, 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).

ALJ Deborah Myers-Cregar is now assigned to conduct the hearing.

IT IS SO ORDERED.

Dated: September 07, 2012

/s/

RICHARD T. BREEN

Presiding Administrative Law Judge
Office of Administrative Hearings