

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT, CALIFORNIA DEPARTMENT
OF MENTAL HEALTH AND LOS
ANGELES COUNTY DEPARTMENT OF
MENTAL HEALTH.

OAH CASE NO. 2010110435

ORDER DENYING STUDENT'S
PEREMPTORY CHALLENGE

On January 13, 2011, Candis W. Bowles, attorney for Student, filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Clifford H. Woosley 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 (PHC), 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).)

ALJ Woosley conducted a PHC in this matter on January 12, 2011, in which Student participated. Student asserts that he was not provided notice prior to the PHC and was therefore unable to raise his peremptory challenge until January 13, 2011. However, Student's challenge should have been made at the commencement of the PHC and therefore, it is untimely. Accordingly, Student's peremptory challenge to disqualify ALJ Woosley is denied.

IT IS SO ORDERED

Dated: January 13, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge (Acting)
Office of Administrative Hearings