

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MARIPOSA COUNTY UNIFIED SCHOOL DISTRICT, STANISLAUS COUNTY OFFICE OF EDUCATION, RIPON UNIFIED SCHOOL DISTRICT, SAN JOAQUIN COUNTY OFFICE OF EDUCATION, AND MARIPOSA COUNTY OFFICE OF EDUCATION.

OAH Case No. 2014100503

ORDER GRANTING PEREMPTORY CHALLENGE

On November 24, 2014, at the commencement of the prehearing conference, San Joaquin County Office of Education (San Joaquin) made an oral request to disqualify Administrative Law Judge Margaret Broussard from hearing this case in the above captioned matter. This peremptory challenge was made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), and California Code of Regulations, title 1, section 1034.

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).)

San Joaquin'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. San Joquin's challenge of ALJ Broussard is granted.
2. The matter is now assigned to ALJ Adeniyi Aoyade and the PHC is continued to 1:00 p.m. on November 24, 2014. All other dates previously set in this matter will remain on calendar.

DATE: November 24, 2014

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings