

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

v.

UKIAH UNIFIED SCHOOL DISTRICT.  
OAH CASE NUMBER 2023100750

ORDER GRANTING STUDENT'S PEREMPTORY CHALLENGE  
AND DENYING UKIAH'S PEREMPTORY CHALLENGE

JANUARY 16, 2024

On January 12, 2024, at approximately 9:30 AM, Student filed with the Office of Administrative Hearings, called OAH, a notice of peremptory challenge to Administrative Law Judge Deborah Myers-Cregar. The Administrative Law Judge is called an ALJ. At approximately 10:30 AM, on January 12, 2024, OAH informed the parties that Student's peremptory challenge was granted and ALJ Penelope Pahl was assigned to the case. At approximately 1:00 PM, on January 12, 2024, ALJ Pahl convened a prehearing conference with the parties. Ukiah did not object to ALJ Pahl presiding over the prehearing conference and did not exercise its peremptory challenge. The parties completed the prehearing conference with ALJ Pahl. However, at approximately 1:10 PM, Ukiah filed a notice of peremptory challenge to ALJ Pahl. Student's and Ukiah's

peremptory challenges were made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act, 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, also called disqualification without cause, to an ALJ assigned to an OAH hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) A peremptory challenge is not allowed if made after the hearing starts. 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 must be made no later than the start of that prehearing conference. (Cal. Code Regs., tit. 1, § 1034, subd. (c).) A peremptory challenge is not allowed on reconsideration or remand. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

Student's peremptory challenge was 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). Ukiah's peremptory challenge was not timely made and is denied because it was filed after the prehearing conference started and because Ukiah did not verbally object to ALJ Pahl presiding over the prehearing conference. ALJ Pahl remains the assigned judge.

IT IS SO ORDERED.

*Tara Doss*

Tara Doss

Presiding Administrative Law Judge

Office of Administrative Hearings