

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010090415

ORDER GRANTING DISTRICT'S
PEREMPTORY CHALLENGE

On November 22, 2010, Jennifer R. Rowe, attorney for the West Contra Costa Unified School District (District), filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Rebecca Freie from hearing this case. District's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), and California Code of Regulations, title 1, section 1034, subdivisions (a) and (b).

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).)

District's peremptory challenge is timely made and is granted pursuant to Government section 11425.40, subdivision (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter is reassigned to ALJ Michael Barth for purposes of mediation and assigned to ALJ Deidre Johnson for purposes of the prehearing conference and due process hearing.

IT IS SO ORDERED.

Dated: November 22, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings