

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2010100676

ORDER GRANTING PEREMPTORY
CHALLENGE

On February 10, 2011, Sarah Fairchild, attorney for Student, filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Adeniyi Ayoade from hearing this case.¹ 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, 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).)

Student'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 has been reassigned to ALJ Deidre Johnson.

IT IS SO ORDERED.

Dated: February 14, 2011

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings

¹ Student also sought to disqualify the ALJ for cause. Because the peremptory challenge is granted, the Office of Administrative Hearings need not address the challenge for cause.