

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2011060266

v.

BERKELEY UNIFIED SCHOOL DISTRICT,

BERKELEY UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2011050280

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S
PEREMPTORY CHALLENGE

On August 26, 2011, Christian M. Knox, attorney for Student, filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Adeniyi Ayoade 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, subds. (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 Code section 11425.40, subdivision (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter has been reassigned to ALJ Peter Paul Castillo and the prehearing conference in this matter is continued to 2:30 p.m. on August 29, 2011.

IT IS SO ORDERED.

Dated: August 29, 2011

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings