

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012010705

ORDER GRANTING STUDENT'S
PEREMPTORY CHALLENGE

On July 3, 2012, the Office of Administrative Hearings issued an order reassigning this matter to Administrative Law Judge (ALJ) Deidre L. Johnson for issuance of a written decision. The July 3, 2012 order permitted the parties to file a peremptory challenge on or before the close-of-business July 9, 2012. On July 9, 2012, Student timely filed a peremptory challenge seeking to disqualify ALJ Johnson. Student's peremptory challenge is made pursuant to 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 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 Alexa Hohensee.

IT IS SO ORDERED.

Dated: July 10, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings