

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRUITVALE SCHOOL DISTRICT, KERN
COUNTY SUPERINTENDENT OF
SCHOOLS AND KERN COUNTY SELPA.

OAH CASE NO. 2012030921

ORDER GRANTING PEREMPTORY
CHALLENGE

On April 25, 2012, during the prehearing conference on Student's sibling's case, Stacy L. Inman, attorney for the Fruitvale School District, Kern County Superintendent of Schools and Kern County SELPA (jointly referred to as "public agencies"), filed a peremptory challenge seeking to disqualify Administrative Law Judge (ALJ) Adeniyi Ayoade from hearing this case. The verbal challenge was subsequently followed by a written challenge from the public agencies. The public agencies' 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).)

The public agencies' preemptory 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 Theresa Ravandi.¹

IT IS SO ORDERED.

Dated: April 30, 2012

/s/

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

¹ While this order is dated April 30, 2012, the preemptory challenge was granted on April 25, 2012, and ALJ Ravandi conducted the prehearing conference in this matter on April 25, 2012.