BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. OAKLAND UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013050644 ORDER DENYING STUDENT'S PEREMPTORY CHALLENGE

On September 11, 2013, Natashe Washington, attorney for Student, filed a notice of peremptory challenge to Administrative Law Judge (ALJ) Charles Marson in the above captioned matter. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), and California Code of Regulations, title 1, section 1034.

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).)

On July 5, 2013, ALJ Marson conducted a prehearing conference in this matter, wherein he considered and ruled upon a motion to continue. Because the parties have appeared before ALJ Marson and participated in a prehearing conference, Student's motion is untimely, and is denied.

IT IS SO ORDERED.

Dated: September 11, 2013

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