BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015010344
v.	ORDER GRANTING DISTRICT'S PEREMPTORY CHALLENGE AND DENYING REQUEST FOR CONTINUANCE
OAKLAND UNIFIED SCHOOL DISTRICT.	

On April 9, 2015, the Office of Administrative Hearings reassigned the hearing in this matter to Administrative Law Judge Charles Marson. On April 11, 2015, Student filed a peremptory challenge to ALJ Marson. On April 13, 2015, OAH granted Student's peremptory challenge and reassigned this matter to ALJ Rebecca Freie. On April 13, 2015, the Oakland Unified School District filed a peremptory challenge to ALJ Freie.

Oakland also requested a continuance based upon future potential conflicts for its counsel on April 17, 2015, and the week of April 21, 2015.

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).)

Oakland's peremptory challenge is timely made, as OAH reassigned this matter on April 13, 2015, and is granted pursuant to Government section 11425.40, subdivisions (a) and (d), and California Code of Regulations, title 1, section 1034, subdivision (c). The matter is reassigned to ALJ Theresa Ravandi.

With respect to Oakland's request for continuance, the request is not yet ripe. At this time, there is no evidence that a genuine conflict exists as this matter is currently calendared to finish on April 16, 2015. Therefore, the request is denied without prejudice. Oakland may

renew the request to the ALJ presiding at the hearing, should a conflict arise. Any continuance will be granted or denied at the discretion of the ALJ presiding at the hearing.

IT IS SO ORDERED.

DATE: April 13, 2015

/s/

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