

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013060562

ORDER GRANTING DISTRICT'S
PEREMPTORY CHALLENGE AND
VACATING FIRST DAY OF DUE
PROCESS HEARING

On November 27, 2013, the Office of Administrative Hearings informed the parties that this matter was reassigned to Administrative Law Judge (ALJ) Rebecca Freie. On November 27, 2013, Daniel Osher, attorney for the Sacramento City Unified School District (District), filed a peremptory challenge to ALJ Freie.

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).)

District's peremptory challenge is timely made 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 assigned to ALJ Deidre L. Johnson. The first day of hearing, December 2, 2013, is vacated and the hearing is continued to December 3, 2013, at 9:30 a.m.

Dated: December 2, 2013

/s/

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