BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BERKELEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018020102 ORDER GRANTING PEREMPTORY CHALLENGE

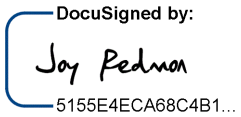
On June 8, 2018, the parties were notified that Administrative Law Judge Penelope Pahl was assigned to this matter after Student's peremptory challenge to another ALJ had been granted. Shortly thereafter, Berkeley Unified School District filed a notice of peremptory challenge to ALJ Pahl. Berkeley's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act, 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 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).)

Berkeley's peremptory challenge was made after noon on the Friday before the scheduled due process hearing. However, Berkeley's challenge is considered timely given when it received notice of ALJ Pahl's assignment. Accordingly, Berkeley's challenge 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 now assigned to ALJ Theresa Ravandi.

IT IS SO ORDERED.

DATE: June 11, 2018



JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings