BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

BERKELEY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2023100681

ORDER GRANTING PEREMPTORY CHALLENGE

NOVEMBER 9, 2023

On November 8, 2023, Berkeley filed a notice of peremptory challenge to Administrative Law Judge Rita Defilippis. 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. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

OAH notified parties on November 8, 2023, that the matter was reassigned to ALJ Defilippis. Therefore, Berkeley'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 now assigned to ALJ Penelope Pahl.

IT IS SO ORDERED.

Joy Redmon

Joy Redmon
Presiding Administrative Law Judge
Office of Administrative Hearings