

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021060176

ORDER DENYING PEREMPTORY CHALLENGE

SEPTEMBER 27, 2021

On September 24, 2020, Upland Unified School District filed a notice of peremptory challenge to Administrative Law Judge Rob Martin in the above captioned matter. The 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.

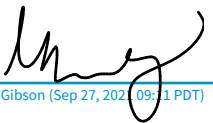
Government Code section 11425.40, subdivision (d), establishes the criteria for disqualification of the presiding officer. A party is entitled to one peremptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings hearing. (Cal. Code Regs., tit. 1, § 1034, subds. (a) & (b); Gov. Code, § 11425.40, subd. (d).) Additionally, if the hearing is to be held at a site other than an OAH regional office, the peremptory challenge shall be made by noon on the Friday prior to the week

in which the hearing is to commence. (Cal. Code Regs., tit. 1, § 1034, subd. (e).) A peremptory challenge is not allowed on reconsideration or remand. (Cal. Code Regs., tit. 1, § 1034, subd. (a).)

Upland's peremptory challenge was not timely made as it was filed after noon the Friday before the hearing is scheduled to commence. OAH's external calendar provides official notice to the parties of ALJ assignment changes. Additionally, in this case, both parties received a courtesy call notifying them of the change the day before the deadline to exercise the challenge.

ORDER

1. Upland's challenge of ALJ Rob Martin is denied.
2. All dates previously set in this matter will remain on calendar.


Margaret Gibson (Sep 27, 2022 09:11 PDT)

Margaret Gibson
Presiding Administrative Law Judge
Office of Administrative Hearings