

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BURBANK UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110319

ORDER GRANTING PEREMPTORY
CHALLENGE

On February 8, 2016, Burbank Unified School District filed a notice of preemptory challenge to Administrative Law Judge Sabrina Kong in the above captioned matter. District's preemptory challenge was 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 preemptory challenge (disqualification without cause) to an ALJ assigned to an Office of Administrative Hearings hearing. (Cal. Code Regs., tit. 1, § 1034, subs. (a) & (b); Gov. Code, § 11425.40, subd. (d).) In no event will a preemptory 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 preemptory 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 preemptory 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).

ORDER

1. District's challenge of ALJ Kong is granted. This case is assigned for all purposes to ALJ Adrienne Krikorian.

2. The matter will proceed as previously scheduled, except that the prehearing conference will now be at 3:00 p.m., on February 8, 2016.

DATE: February 8, 2016

DocuSigned by:

Peter Paul Castillo

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings