

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009040890

ORDER DENYING PEREMPTORY
CHALLENGE

On August 10, 2009, Pamela Daves, attorney for Student, filed a peremptory challenge to Administrative Law Judge (ALJ) Glynda Gomez in the above captioned matter. Student's peremptory challenge is made pursuant to Government Code section 11425.40, subdivision (d), of the Administrative Procedures Act (APA), 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 (OAH) hearing. (Cal. Code Regs., tit. 1, § 1034, subs. (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).)

In this case, a prehearing conference was convened the morning of August 10, 2009 at 10:00AM and was continued until 2:00PM on representations of the parties that they were obtaining final signatures on a settlement agreement. Instead, Student's attorney filed this peremptory challenge. ALJ Gomez was at the time of the prehearing also assigned to the hearing. Therefore, Student's peremptory challenge to ALJ Gomez is not timely made and is denied pursuant to Government section 11425.40, subdivisions (d), and California Code of Regulations, title 1, section 1034, subdivision (c).

ORDER

Student's peremptory challenge of ALJ Gomez is *denied*.

IT IS SO ORDERED.

Dated: August 10, 2009

/s/

ANN F. MACMURRAY
Presiding Administrative Law Judge
Office of Administrative Hearings