

5060 Disqualification of Administrative Law Judge

(a)

An administrative law judge is subject to disqualification in a proceeding on the following grounds: (i) for bias, prejudice, or interest in the proceeding as defined by Government Code section 11425.40; (ii) for receipt of an impermissible ex-parte communication under rule 5059, the effect of which cannot be eliminated under that rule; (iii) to maintain the separation of the adjudicative function from the investigative, prosecutorial, and advocacy functions as required by Government Code section 11425.30; or (iv) for any of the grounds specified in Code of Civil Procedure section 170.1.

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for receipt of an impermissible ex-parte communication under rule 5059, the effect of which cannot be eliminated under that rule;

(iii)

to maintain the separation of the adjudicative function from the investigative, prosecutorial, and advocacy functions as required by Government Code section 11425.30; or

(iv)

for any of the grounds specified in Code of Civil Procedure section 170.1.

(b)

An administrative law judge who is subject to disqualification shall voluntarily disqualify himself or herself from a proceeding, unless all parties participating in the proceeding waive the disqualification. A disqualification may not be waived if it is for bias or prejudice, if the administrative law judge has been a material witness concerning the proceeding, if the disqualification is required by Government Code section 11425.30, or if waiver is otherwise prohibited by law.

(c)

A party may apply for the disqualification of an administrative law judge by promptly filing an affidavit specifying the grounds upon which it is claimed that the administrative law judge is subject to disqualification. An administrative law judge shall be disqualified from a proceeding if it is determined upon such an application that the administrative law judge is subject to disqualification. An application for disqualification of an administrative law judge shall be decided by a presiding administrative law judge or the chief administrative law judge. An application for disqualification of a presiding administrative law judge shall be decided by the chief administrative law judge. An application for disqualification of the chief administrative law judge shall be decided by the chairperson.