BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

FULLERTON SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024070001

ORDER DENYING CHALLENGE FOR CAUSE

SEPTEMBER 25, 2024

On June 27, 2024, Fullerton School District filed a request for due process hearing, complaint, naming Student.

On July 15, 2024, OAH granted the parties' request for mediation and continuance, setting the due process hearing for September 4 and 5, 2024.

On August 23, 2024, during the prehearing conference, ALJ Dalton continued the hearing to September 5, 2024, at 9:30 AM, due to a conflict with Parents on September 4, 2024.

On September 5, 2024, ALJ Dalton began the hearing at 9:30 AM as previously scheduled. On September 5, 2024, at 9:36 AM, OAH received Father's request for continuance to any day after September 23, 2024, for reasons set forth in the motion.

After trailing the matter for further review, the undersigned ALJ granted Father's motion and continued the hearing to September 24 and 25, 2024.

On September 24, 2024, at 8:44 AM, OAH received, among other things, Father's request for a new judge because ALJ Dalton initially denied, but ultimately granted, Father's request for continuance on September 5, 2024. On September 24, 2024, the second day of hearing commenced at 9:30 AM. ALJ Dalton denied Father's request for a new judge, taken as a challenge for cause, on the record, with an order to follow.

An Administrative Law Judge may be disqualified for bias, prejudice, or interest in the proceeding. (Gov. Code, § 11425.40, subd. (a).) The following, without further evidence of bias, prejudice, or interest, are not by themselves grounds for disqualification:

- The Administrative Law Judge is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of that group;
- The Administrative Law Judge has experience, technical competence, or specialized knowledge of, or has in any capacity expressed a view on, a legal, factual, or policy issue presented in the proceeding; or
- The Administrative Law Judge has as a lawyer or public official participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding. (Gov. Code, § 11425.40, subd. (b).)

In other words, to disqualify an Administrative Law Judge for cause, a factual showing of actual bias or prejudice is required. (See *American Isuzu Motors, Inc. v. New Motor Vehicle Board* (1986) 186 Cal.App.3d 464, 472.) For example, in order to be a

basis for disqualification, the financial interest of the Administrative Law Judge in the outcome of the case must be direct, personal, and substantial, rather than slight. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1031.) Personal involvement in the case by the Administrative Law Judge or familial connections may warrant disqualification based solely on the probability of bias. (See *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170-1173.) However, in most other cases, including claims of bias arising from the hearing officer's personal or political views, disqualification will not occur absent a showing of actual bias. (*Haas*, *supra*, at p. 1032.)

Father's challenge for cause does not demonstrate the ALJ's actual bias, prejudice, or interest in the proceeding. Rather, Father cites statements he alleges were made by the ALJ regarding his request for continuance. Such statements, even if taken as true, are insufficient to demonstrate bias, prejudice, or interest in the proceeding. Rather, the discussion of facts underlying Father's request for continuance were merely probative of the reasons for the request for continuance and nothing more.

Father's motion challenging ALJ Dalton's for cause and seeking to disqualify ALJ Dalton from hearing this case is denied. All dates previously set in this matter are confirmed. The hearing will recommence on October 8, 2024, at 9:30 AM and continue day to day at the discretion of the ALJ.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings