BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

SELMA UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2025040745

ORDER DENYING CHALLENGE FOR CAUSE

MAY 12, 2025

On May 9, 2025, Parent on behalf of Student filed a motion to disqualify Administrative Law Judge, Dan Senter from hearing this case with the Office of Administrative Hearings, called OAH. This document does not include a proof of service establishing that Selma Unified School District was served. Parent has been admonished several times that motions filed with OAH must be served on Selma Unified. The motion was served with the May 9, 2025 Notice of Ex Parte Communications.

In the motion, Parent generally asserts that the undersigned ALJ should be disqualified due to conflict of interest based on past work experience, denial of due process by delaying ADA accommodations, and procedural bias at the Prehearing Conference, called a PHC.

Parent previously filed three documents with OAH related to the assignment of the undersigned ALJ Dan Senter. They are a Request for Clarification Regarding Judicial Assignment, dated April 29, 2025; Request to Remove the Judge from My Case, dated April 30, 2025; and Supplement to Motion to Recuse dated April 30, 2025. In the three letters, Parent generally asserted that ALJ Senter was assigned to this matter without notice, and that ALJ Senter should be disqualified due to conflict of interest from past work experience, and unfairness demonstrated at the PHC. These requests were deemed both a peremptory challenge and a challenge for cause. Parent's peremptory challenge was denied in an Order dated April 30, 2025. Parent's challenge for cause was denied in an Order dated May 1, 2025.

Parent was provided information about the OAH disability accommodation request process, via the Scheduling Order dated April 17, 2025. This Order states:

> A party or participant to this case, such as a witness, requiring reasonable accommodation to participate in the mediation or hearing may contact the assigned case manager listed on the Scheduling Order; submit the request using the Secure File Transfer system; or the OAH Reasonable Accommodation Coordinator by phone at 916-263-0880 or email to OAHADA@dgs.ca.gov.

At the April 28, 2025 PHC in this case, Parent was asked by the undersigned ALJ whether she requested any reasonable accommodations at the hearing, and Parent answered that she did not. The April 30, 2025 Order Following the PHC for this case provides:

> A party or participant in this case, such as a witness, requiring reasonable accommodation to participate in a

> mediation or hearing may contact OAH at (916) 263-0880, or send an email to OAHADA@dgs.ca.gov as soon as the need is known. The e-mail should have "Request for Accommodation" in the Subject Line. Additional information concerning requests for reasonable accommodation is available on OAH's website at: https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Request-Reasonable-Accommodations-for-OAH-Legal-Proceedings.

On the morning of May 6, 2025, the first hearing day in this case, Parent filed a motion to continue the hearing based on illness. The motion did not mention disability. On the record on May 6, 2025, Parent stated that she had a disability. In response, the undersigned ALJ stated that the contact information for OAH's ADA Coordinator is contained in the Order Following the PHC and that if Parent had concerns about a disability, she could contact the ADA Coordinator. The hearing was continued for one day to May 7, 2025, based on Parent's request and was not opposed by Selma Unified.

On the morning of May 7, 2025, Parent filed a motion to stay the hearing pending ADA accommodation. In the motion, Parent asserts she had "submitted a written request for ADA accommodations as instructed by the court and have not received a response." Prior to going on the record for hearing on May 7, 2025, Student's motion was granted, and OAH staff notified the parties.

Also, on May 7, 2025, OAH Presiding Judge Redmon issued a written Order granting Parent's request for continuance and continued the matter for one day to May 8, 2025. The Order states: "OAH has not been able to contact Parent as part of the interactive process called for under the [ADA]" and "Parent shall make themselves

available on May 7, 2025, by phone to speak to the OAH ADA Coordinator regarding Parent's reasonable accommodation request."

On the morning of May 8, 2025, Parent filed a motion to continue due to denial of ADA accommodations. In the motion, Parent states "I made two written requests for ADA accommodations—on May 6 and May 7, 2025—to the designated OAH ADA email, and to date, I have received no acknowledgment, response, or support." On May 8, 2025, while addressing Parent's motion on the record, the undersigned ALJ asked Parent if she would like to speak with the OAH ADA Coordinator. Parent said she would. As a result, the undersigned ALJ opened a separate, private videoconference room, to allow Parent and the OAH ADA Coordinator to engage in the interactive ADA process. As a result of that process, Parent's request for ADA accommodation was granted, and the hearing was continued until May 13, 2025.

APPLICABLE LAW

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.)

DISCUSSION

Parent's argument about the assignment of ALJ Senter and the opportunity to challenge it was already addressed in the April 30, 2025 Order. To the extent Parent seeks to challenge the undersigned ALJ for cause, Parent failed to establish any facts showing actual bias or prejudice. First, Parent again contends that the undersigned ALJ has a conflict of interest due to past work experience. Parent raised this argument in earlier filings. The undersigned ALJ's May 1, 2025 Order denied Parent's challenge for cause based on Parent's same argument. Parent's new motion asserts no new facts regarding this alleged conflict of interest. Accordingly, Parent's conflict of interest argument is not evidence of actual bias or prejudice.

Second, Parent's argument that the undersigned ALJ demonstrated procedural bias at the PHC fails to establish any facts showing actual bias or prejudice. Parent asserts that during the PHC the undersigned created a power imbalance that favored Selma Unified. Parent fails to cite any specific examples of actual bias or prejudice from the PHC. Even had Parent cited examples, the undersigned ALJ already addressed Parent's prior examples in the May 1, 2025 Order regarding the undersigned ALJ's alleged mistakes, interruptions, and alignment with counsel for Selma Unified and found they were not evidence of actual bias or prejudice. Here, Parent asserts no new facts— or any facts— supporting its argument. Accordingly, Parent fails to establish any facts of actual bias or prejudice.

Third, Parent's argument that the undersigned delayed the ADA process fails to demonstrate actual bias or prejudice. Parent informed the undersigned ALJ at the April 28, 2025 PHC that she did not request any accommodations. The first time Parent mentioned having a disability was May 6, 2025, the first morning hearing, at which point the undersigned ALJ immediately, again, provided Parent with information to initiate an ADA accommodation request. Parent had already been provided this information through the Scheduling Order, the Order Following the PHC, and at the PHC. At some point after the morning of May 6, 2025, Parent, for the first time, submitted a request to OAH to initiate the ADA accommodation process. Upon receiving Parent's request, OAH repeatedly attempted to contact Parent on May 7, 2025 and continued the hearing until May 8, 2025 specifically to allow Parent to engage in the ADA interactive process. Because Parent and the OAH ADA Coordinator were not able to speak on May 7, 2025, the undersigned ALJ ensured they were able to engage in the ADA process immediately on the morning of May 8, 2025, and then continued the hearing until May 13, 2025, based on the granting of Parent's ADA accommodation.

Parent argues that the ALJ delayed the ADA accommodation process and thus should be recused. As discussed in detail above, that is factually untrue. However, even assuming the ADA accommodation process was delayed and that the undersigned caused the delay, that does not result in automatic recusal. Bias, prejudice, or interest in the proceeding would have to be established. Parent did not meet her burden establishing the undersigned has bias, prejudice, or interest in the proceeding based on the ADA accommodation process or otherwise.

ORDER

Student's challenge to the undersigned, ALJ Senter is denied. All dates previously set in this matter are confirmed.

IT IS SO ORDERED.

Daniel Senter

Daniel Senter
Administrative Law Judge
Office of Administrative Hearings