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 1, 2025

Parent filed three documents with the Office of Administrative Hearings, called OAH, related to assigned Administrative Law Judge, called an 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.

The letters were addressed via separate order by Presiding Administrative Law Judge Redmon on April 30, 2025. This order addresses the challenge for cause seeking to disqualify me from hearing this case.

On April 28, 2025, the undersigned convened a prehearing conference in this matter, called a PHC. At the start of the PHC, I disclosed working as a summer law clerk

for approximately three months in 2009 at Lozano Smith, the law firm representing Selma Unified in this matter. I further disclosed that this experience would not prevent me from presiding over the PHC or the hearing, or deciding the case, in an impartial manner, or that it would cause undue bias. At the PHC, parties were offered an opportunity to ask questions or comment about this disclosure, but Parent declined.

Parent, on behalf of Student, seeks to disqualify the undersigned ALJ from hearing this case based generally on an alleged conflict of interest created by the work experience at Lozano Smith, the law firm representing Selma Unified in this matter. Parent also asserts disqualification based on alignment with counsel for Selma Unified when incorrect hearing dates were referred to at the PHC. Parent asserts disqualification is necessary to restore fairness.

APPLICABLE LAW

An ALJ 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 ALJ 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 ALJ 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 ALJ 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 ALJ 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, to be a basis for disqualification, the financial interest of the ALJ 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 ALJ 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 failed to establish any facts showing actual bias or prejudice. Parent asserted that a conflict of interest exists due to past work experience. The undersigned worked as a summer law clerk at Lozano Smith in 2009 for three months. At that time, the undersigned was a law student, not a lawyer. The undersigned has no personal recollection of ever working on behalf of Selma Unified or working with either Lozano Smith attorney currently assigned to this matter. Further, the undersigned made a finding at the PHC that he could impartially preside over this matter and was free from bias or prejudice that would unfairly influence his decision in this due process proceeding. Parent established no facts to find otherwise.

Moreover, Parent's assertions regarding the ALJ's alleged incorrect references to the hearing dates in this matter fail to demonstrate bias or prejudice. Parent asserts that at the PHC the ALJ repeatedly referenced incorrect hearing dates, May 7-9, 2025, instead of the correct dates, May 6-8, 2025. Parent further asserts that this mistake, combined

with counsel for Selma Unified's request to go dark on May 9, 2025, due to a pre-planned vacation, is evidence of alignment between the ALJ and counsel.

The undersigned stated the correct hearing dates at the PHC, May 6, 7, and 8, 2025. However, even had the undersigned mistakenly stated the wrong dates, the correct dates are set forth in writing in both the Scheduling Order and the Order Following the PHC. Further, the undersigned did not rule on Selma Unified's request to go dark at the PHC, but ordered Selma Unified to raise this at hearing if needed. This is also reflected in the Order Following the PHC.

Finally, Parent asserts that at the PHC the ALJ interrupted her when she was reading her statement and referenced locking the online evidence platform. At a PHC, the ALJ is tasked with reviewing and clarifying the issue(s) identified by the filing party. Here, Selma Unified is the filing party. At the PHC, the Parent sought to raise additional issues not contained in the filing party's complaint. Parent was permitted to state Student's additional concerns but was redirected back to the filing party's issue. It was also noted at the PHC, and in the Order Following the PHC, that should Parent seek to litigate issues, Student could file a separate complaint. Moreover, specifying at the PHC that Case Center would be locked three business days prior to the hearing is a rule that applies to both parties. This rule is also set forth in the Order Setting Procedures for Filing Exhibits, which was provided to the parties with the Scheduling Order. The Order states: "Beginning three business days before the first day of hearing, Case Center will not allow parties to upload exhibits unless permitted by the ALJ during the hearing at the ALJ's discretion." For these reasons, Parent's assertions are not evidence of bias or prejudice.

Parent's challenge for cause is denied because Parent failed to demonstrate actual bias or prejudice.

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