BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

EMPIRE SPRINGS CHARTER SCHOOL,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020090972

ORDER DENYING CHALLENGE FOR CAUSE

DECEMBER 07, 2020

On December 7, 2020, Empire Springs Charter School filed a challenge for cause seeking to disqualify Administrative Law Judge Cararea Lucier from hearing this case.

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, 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

Empire Springs contends that the undersigned ALJ has an actual bias against it because as an attorney, she initiated two unrelated due process filing against another

charter school that happens to be in the same network of charter schools as Empire Springs. Empire Springs was not a party to either of those actions.

Empire's Spring's motion is denied. The undersigned ALJ has had no personal involvement or familial connection with Empire Springs. (See *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170-1173.) Experience, technical competence, or specialized knowledge of legal, factual, or policy issues presented in the proceeding are not grounds for disqualification. (Gov. Code, § 11425.40, subd. (b).) Empire Springs has failed to establish actual bias or prejudice against it. (See *American Isuzu Motors, Inc. v. New Motor Vehicle Board* (1986) 186 Cal.App.3d 464, 472.)

ORDER

Empire Spring's challenge of ALJ Cararea Lucier is denied.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings