BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PLEASANT VALLEY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2019090819

and

PARENT ON BEHALF OF STUDENT,

v.

PLEASANT VALLEY SCHOOL DISTRICT AND VENTURA COUNTY OFFICE OF EDUCATION,

OAH CASE NUMBER 2019080672

ORDER DENYING CHALLENGE FOR CAUSE

On November 5, 2019, Student filed a challenge for cause seeking to disqualify Administrative Law Judge Cole Dalton from hearing this case. Administrative Law Judge is referred to as ALJ.

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

On October 15 and 16, 2019, ALJ Dalton presided over the first two days of hearing in this matter. Student did not attend and subsequently moved to set aside the hearing and schedule new dates. OAH issued an order denying Student's request to set aside the hearing and granting the request to schedule additional hearing dates. The hearing in the consolidated matter was continued to November 13 and 14, 2019. Student now challenges ALJ Dalton for cause, and requests that a new ALJ be assigned to this case.

Mother alleges that prior rulings in this matter demonstrate ALJ Dalton's bias against Student. Mother further alleges that inaccurate statements made about her in Pleasant Valley's motions and oppositions demonstrate bias. Specifically, Mother contends that ALJ Dalton showed bias by not reprimanding Pleasant Valley's counsel for making statements with which Mother disagreed.

The fact that an ALJ has expressed a view on a legal, factual, or policy issue presented in the proceeding does not demonstrate bias and is not a ground for disqualification. (Gov. Code, § 11425.40, subd. (b)(2).) Nor is it an adequate showing of bias or ground for disqualification that an ALJ has previously ruled against one of the parties in litigation. (*County of San Diego v. Alcoholic Beverage Control Appeals Board* (2010) 184 Cal.App.4th 396, 406.)

A ruling against Student on any motion brought in this matter is not sufficient to show bias as a matter of law. Neither is it grounds for disqualification that ALJ Dalton should have expressed an opinion on statements made by Pleasant Valley's counsel.

Student has provided no legal authority that an ALJ lacks discretion to determine whether to comment on statements made by the parties in a matter pending before the ALJ. Student has not presented evidence that ALJ Dalton was actually biased, prejudiced, or had an interest in these proceedings.

ORDER

Student's motion to disqualify ALJ Dalton and have a new ALJ assigned to this case is denied. All dates previously set in this matter are confirmed.

DATED: November 7, 2019

DocuSigned by:
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Cole Dalton
Administrative Law Judge
Office of Administrative Hearings