BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: UPLAND UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017021090 ORDER DENYING CHALLENGE FOR CAUSE

On May 22, 2017, Administrative Law Judge Tara Doss presided over a prehearing conference in this matter, involving Student and District. On May 25, 2017, Parent filed an ex-parte letter with the Office of Administrative Hearings to express disagreement with several rulings ALJ Doss made during the PHC, including an assertion that ALJ Doss demonstrated bias towards District by rewriting District's sole issue in the case. Based on the assertion of bias, OAH will treat Student's letter as a challenge for cause seeking to disqualify ALJ Doss from the due process hearing in this case.

On May 26, 2017, OAH issued a Notice of Ex Parte Communication and forwarded a copy of Parent's letter to District. OAH ordered District to respond to Parent's letter by 12:00 PM on May 30, 2017.

On May 30, 2017, District filed an opposition to Student's request to disqualify ALJ Doss.

An ALJ may be disqualified for bias, prejudice, or interest in the proceeding. (Gov. Code, § 11425.40, subd. (a).) 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.) Disqualification will not occur absent a showing of actual bias. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1031 [direct, personal financial interest in outcome of case may be a basis for disqualification]; *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170-1173 [personal involvement in the case or familial connections].)

Here, Student disagreed with certain rulings the ALJ made during the PHC, including but not limited to: (1) denying Student's request to record the PHC; (2) denying Student's request for five hearing days; (3) rewriting District's sole issue; (4) denying Student's request to add issues to be decided at hearing; and (5) ordering the parties to meet and confer regarding witness and exhibit lists instead of engaging in the discussion during the PHC. However, Student did not assert any facts showing bias or prejudice.

The undersigned ALJ does not have any financial interest in the outcome of this case; and does not have any personal involvement or familial connection with any of the parties in the case. The undersigned ALJ is free from bias, prejudice, or interest in this case, and can be impartial in the conduct of and rendering a decision in the due process hearing.

ORDER

1. Student's challenge of ALJ Doss is denied.

2. All dates previously set in this matter will remain on calendar.

DATE: May 30, 2017

DocuSigned by:
Tara Doss
0D223C0D8032412...

TARA DOSS
Administrative Law Judge
Office of Administrative Hearings