BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025080032

ORDER DENYING STUDENT'S SECOND ALJ CHALLENGE FOR CAUSE

AUGUST 25, 2025

On July 30, 2025, Parent, on behalf of Student, filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Cupertino Union School District as respondent. On August 14, 2025, Student's peremptory challenge to the assigned administrative law judge was granted, and the undersigned was assigned to this case. Student's prior challenge for cause as to the undersigned, ALJ Pahl, was denied on August 15, 2025. On August 21, 2025, Student filed a second challenge for cause to ALJ Pahl. The case was reassigned on August 21, 2025 to a different ALJ due to OAH operational needs as ALJ Pahl is currently presiding over an ongoing hearing. For the reasons stated below, Student's second ALJ challenge for cause is also denied.

ADMINISTRATIVE LAW JUDGE CHALLENGE FOR CAUSE

Disqualification of a California Administrative Law Judge for bias, prejudice or interest is governed by California Government Code section 11425.40. The applicable sections of that code section state:

a) "The presiding officer is subject to disqualification for bias, prejudice, or interest in the proceeding.
b) It is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the presiding officer:
    1. Is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of that group.
    2. 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."

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.)

Student raises four new challenges for cause and reiterates allegations made in his first challenge for cause. Some of the challenges appear to be disagreements with rulings.

DISABILITY ACCOMMODATIONS AVAILABLE ON REQUEST

During the prehearing conference, the parties were asked if they knew of any disability accommodation needed by parties or hearing participants. In response to the question, Parent initially requested that all motions be made in writing. When it was

explained that this was an inquiry as to physical disabilities, and accommodations that might be needed during the hearing. Parent argued generally that there could be other disabilities that were not physical. When asked again if he was requesting any accommodations, Parent reiterated his request that all motions be in writing. The ALJ informed Parent that the information regarding requesting disability accommodations would be included in the PHC order, which it was.

NO DISPARATE PARTY EXPECTATIONS

Parent asserts that "ALJ Pahl appears lenient towards the District while being extremely strict with the parent." There has been no disparate treatment of the parties. Parent was informed that documents needed to be filed by required deadlines, and proofs of service needed to comply with legal requirements. Proofs of service were being signed "parents of Minor" with no specifics as to the identity of the server. The proofs of service failed to comply with applicable regulations in other ways as well, which made it difficult to tell how and when service was accomplished. When it was pointed out that the proofs of services being filed by Parent were not legally compliant, and that one could not even tell which Parent served the document when the proof of service was signed "parents of minor," Parent informed the ALJ he would write "parent" of minor instead of using a plural. Parent was told this would be insufficient.

Parent has previously been informed that he is required to comply with procedural rules. The requirement that proofs of service include the required information was stated at the prehearing conference because Cupertino asserted that it had not received service of the first motion challenging the undersigned for cause. Student argued it had been served, but service details could not be determined by looking at the proof of service. Cupertino raised the issue as Parent was anticipating filing additional motions following the prehearing conference. Cupertino expressed

concern that it would not receive notice of the filings. The August 15, 2025 PHC order also reminded Parent to include his name, address and telephone number or email on the first page of his documents, as required by California regulations. Nothing is required of Parent that is not also required of Cupertino.

SETTLEMENT AGREEMENT AS PRELIMINARY MATTER NOT BIAS

Parent argues that hearing the issue regarding whether a prior settlement agreement bars portions of the claims included in this complaint as a preliminary matter was not discussed in the prehearing conference. He also argues that hearing the issue this way does not comport with the order in OAH case number 2025060187. This is being treated as an allegation of bias for purposes of this ALJ challenge for cause.

Dismissal of Cupertino's request to dismiss claims on the grounds of the settlement agreement was denied in Student's prior expedited case, OAH case number 2025060187, as it required determination of a question of fact. Cupertino's requested dismissal of the issue in this case was also denied on the same basis in the prehearing conference order.

Hearing the issue of the application of a settlement agreement to the case as a preliminary matter promotes judicial economy. As stated in the order denying Cupertino's request to dismiss, whether waivers in the alleged settlement agreement exist, and to what extent, are questions of fact that must be determined at hearing. After ruling on the issue of dismissal based on the settlement agreement, it became apparent that a determination on this issue would clarify the scope of the case. That ruling on Cupertino's request to dismiss was made after the prehearing conference on August 18, 2025, as Student's written opposition to the motion to dismiss was filed after that prehearing conference.

Student's opposition to the motion to dismiss disputed the validity of the settlement agreement. If Student prevails on that issue, the case will have a wider scope. Therefore, determining that issue in advance will allow the parties and the ALJ clarity regarding the scope of time and issues in dispute; and the witnesses necessary to proceed with the hearing. The fact that the ruling was issued on August 20, 2025 did not prejudice Student, despite the fact that witness disclosures were due on August 19, 2025. The same witnesses would have been required regardless of whether the issue was considered first, or in the middle of the hearing. Student was on notice that Cupertino was raising the settlement agreement as a defense, and witnesses necessary to that issue should have been included in his witness disclosures.

CLAIM PRECLUSION NOT BIAS

Student argues that the denial of Cupertino's request for dismissal of issues on the grounds of collateral estoppel in Case number 2025060187, should result in denial of Cupertino's request that Student's claims be denied in this case. Student's request is being treated as an assertion that the ruling of claim preclusion in this case resulted from bias for purposes of this second ALJ challenge for cause.

Here, the two cases were presented with different procedural postures. In this case, the doctrine of res judicata precluded relitigation of claims dismissed with prejudice in the prior case, OAH case number 2025060187. Student offered no legal authority, or facts that the claim preclusion ruling is evidence of bias.

NO RECONSIDERATION OF PRIOR RULINGS

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time, generally within ten

days. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

Student made several arguments duplicative of those made in his first challenge for cause. Here, no new facts or law regarding points on which rulings were previously made in the August 15, 2025 order denying Student's first ALJ challenge for cause, have been offered. Therefore, Student has failed to establish a basis for reconsideration of the previously issued order. As a result, the rulings made in the August 15, 2025 order will not be reconsidered.

Student's second ALJ challenge for cause is denied.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings