



**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

LAUREEN THOMPSON,

Charging Party,

v.

STOCKTON UNIFIED SCHOOL DISTRICT,

Respondent.

Case No. SA-CE-2915-E

PERB Order No. Ad-479

July 6, 2020

Appearance: Laureen Thompson, on her own behalf.

Before Banks, Shiners, Krantz, and Paulson, Members.

DECISION¹

This case is before the Public Employment Relations Board (PERB or Board) on a motion by Laureen Thompson (Thompson) to disqualify all presently-serving Board members from participating in this case.² Because Thompson's motion establishes no basis for disqualification, we deny the motion.

¹ Subdivision (d) of PERB Regulation 32320, as amended effective April 1, 2020, permits a majority of Board members issuing any decision or order to designate all or part of such decision or order as non-precedential. Based on all relevant circumstances, including the criteria set forth in Regulation 32320, subdivision (d), we designate this decision as non-precedential. (PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.)

² Thompson's motion also seeks disqualification of the Board's Appeals Assistant. PERB's regulation governing disqualification, however, applies only to "Board member[s]," "Board agent[s] performing an adjudicatory function," and "mediator[s] or conciliator[s] employed within the State Mediation and Conciliation Service." (PERB Reg. 32155, subd. (a).) As the Appeals Assistant does not fall into

DISCUSSION

Initially, we note that Thompson's motion is procedurally defective. PERB Regulation 32155, subdivision (f), which governs the procedure for a motion to disqualify a Board member, provides, in relevant part: "The motion shall be supported *by sworn affidavits* stating the facts constituting the ground for disqualification of the Board member." (Italics added.) Failure to allege the relevant facts under oath is a sufficient basis, by itself, for the Board to deny a disqualification motion. (*Children of Promise Preparatory Academy* (2013) PERB Order No. Ad-402, p. 21 (*Children of Promise*)). Because the factual allegations in Thompson's motion are not made under penalty of perjury, her motion is subject to denial on procedural grounds.

But the motion fails on the merits too. PERB Regulation 32155 provides the following grounds for disqualification:

"(a) No Board member . . . shall decide or otherwise participate in any case or proceeding:

"(1) In which he or she has a financial interest in the outcome.

"(2) When he or she is related to any party or to an agent or officer of any party, or to an attorney or counsel of any party by consanguinity or affinity within the third degree computed according to the rules of law, or when he or she is indebted, through money borrowed as a loan, to any party or to an attorney or counsel of any party.

"(3) When, in the case or proceeding, he or she has been attorney or counsel for any party; or when he or she has given advice to any party upon any matter involved in the proceeding before the Board; or when he or she has been

any of the categories covered by the regulation, we do not address Thompson's allegations involving the Appeals Assistant.

retained or employed as attorney or counsel for any party within one year prior to the commencement of the case at the Board level.

“(4) When it is made to appear probable that, by reason of prejudice of such Board member or Board agent, a fair and impartial consideration of the case cannot be had before him or her.”

Thompson does not allege facts supporting any of the first three bases for disqualification. Instead, her allegations appear to go only to the fourth basis, i.e., prejudice that would prevent fair and impartial consideration of the case.

Thompson’s only evidence of prejudice is the fact that all presently-serving Board members participated in prior decisions dismissing unfair practice charges she filed against Stockton Unified School District and California School Employees Association, Chapter 821. It is well-established that a tribunal’s prior adverse rulings against a party do not establish that the tribunal harbors bias or prejudice against that party. (*People v. Armstrong* (2019) 6 Cal.5th 735, 798; *Children of Promise, supra*, PERB Order No. Ad-402, p. 20; *Gonzales Union High School District* (1985) PERB Decision No. 480, p. 4.) “Rather, for bias or prejudice to be found, there must be evidence of a ‘fixed anticipatory prejudgment’ against a party.” (*Gonzales Union High School District, supra*, PERB Decision No. 480, p. 5.) Thompson does not allege any statement or conduct by any Board member that demonstrates prejudgment of this case and we are aware of none. Thompson therefore has failed to establish grounds for disqualification of any Board member.

ORDER

Laureen Thompson's motion to disqualify the four presently-serving members of the Board itself from participating in Case No. SA-CE-2915-E is DENIED.

PER CURIAM