STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

GONZALES UNION HIGH SCHOOL DISTRICT, Charging Party, v. GONZALES UNION HIGH SCHOOL TEACHERS ASSOCIATION, CTA/NEA, Respondent.	)	Case No. SF-CO-195 PERB Decision No. 379 February 27, 1984

Appearances; William Wood Merrill, Attorney (Littler, Mendelson, Fastiff & Tichy) for the Gonzales Union High School District; Ramon E. Romero, Attorney for the Gonzales Union High School Teachers Association, CTA/NEA.

Before: Jaeger, Tovar and Burt, Members.

DECISION AND ORDER

JAEGER, Member: The Gonzales Union High School District (District) requests special permission, pursuant to Public Employment Relations Board (PERB or Board) rule 32155(d),[1] to

[1]PERB rules are codified at title 8, California Administrative Code, section 31000 et seq. PERB rule 32155(d) provides:

> If the Board agent does not disqualify himself or herself and withdraw from the proceeding, he or she shall so rule on the record, state the grounds for the ruling, and proceed with the hearing and the issuance of the decision. The party requesting the disqualification may, within ten days, file with the Board itself a request for special permission to appeal the ruling of the Board agent. If permission is not granted, the party requesting

appeal the refusal of an Administrative Law Judge (ALJ) to disqualify himself from presiding over an administrative hearing.[2]

PERB rule 32155(d) is intended to permit the Board to grant immediate interlocutory appeal of a Board agent's refusal to disqualify him or herself whenever the Board determines that permitting such an immediate appeal would effectuate the purposes of the Educational Employment Relations Act. Where such special permission to appeal is denied, the moving party is free to reassert its arguments concerning disqualification in its exceptions to the ALJ's proposed decision.[3]

> disqualification may file exceptions, after hearing and issuance of the decision, setting forth the grounds of the alleged disqualification along with any other exceptions to the decision on its merits.

2The District's underlying disqualification motion was made pursuant to PERB rule 32155(a)(4), which provides:

> (a) No . . . Board agent performing an adjudicatory function, shall decide or otherwise participate in any case or proceeding:
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> . . . . . .
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> (4) When it is made to appear probable that, by reason of prejudice of such . . . Board agent, a fair and impartial consideration of the case cannot be had before him or her.

3we note that a party is not required to file a request for special permission to appeal an ALJ's denial of a

We have reviewed the District's request for special permission, including its grounds for urging disqualification of the ALJ, and we find that it would not effectuate the purposes of the Act to grant interlocutory review.

The District's request for special permission to appeal its motion for disqualification of an Administrative Law Judge in Case No. SF-CO-195 is DENIED.

Members Tovar and Burt joined in this Decision.

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disqualification motion in order to preserve its right to appeal that denial in its exceptions to a proposed decision. PERB rule 32155 merely provides an additional, but not mandatory, step in the appeal process.