

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JOYCE A. FORD,)	
)	
Charging Party,)	Case No. LA-CO-23-S
)	
v.)	Interlocutory Appeal
)	
CALIFORNIA CORRECTIONAL PEACE)	PERB Order No. Ad-168-S
OFFICERS ASSOCIATION,)	
)	April 21, 1988
Respondent.)	

Appearances; Dale M. Fiola, Attorney, for Joyce A. Ford; Neyhart, Anderson, Nussbaum, Reilly & Freitas by Roland M. Katz for the California Correctional Peace Officers Association.

Before: Porter, Craib and Shank, Members.

DECISION AND ORDER

SHANK, Member: Joyce A. Ford (Ford) requests special permission, pursuant to Public Employment Relations Board (PERB or Board) Regulation 32155(d),¹ to appeal the refusal of an

¹PERB Regulations are codified at title 8, part III, California Administrative Code, section 31001 et seq. PERB Regulation 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

administrative law judge (ALJ) to disqualify himself from presiding over an administrative hearing.²⁴

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 (Gov. Code sec. 3540 et seq.). 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.

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.

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

(a) No . . . Board agent performing an adjudicatory function, shall decide or otherwise participate in any case or proceeding:

.

(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.

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

Ford's request for special permission to appeal her motion for disqualification of an Administrative Law Judge in Case No., LA-CO-23-S is DENIED.

Members Porter and Craib joined in this Decision.