

(3) Impartial Tribunal. Just as in criminal and quasi-criminal cases,⁷²⁹ an impartial decisionmaker is an essential right in civil proceedings as well.⁷³⁰ “The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law. . . . At the same time, it preserves both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him.”⁷³¹ Thus, a showing of bias or of strong implications of bias was deemed made where a state optometry board, made up of only private practitioners, was proceeding against other licensed optometrists for unprofessional conduct because they were employed by corporations. Since success in the board’s effort would redound to the personal benefit of private practitioners, the Court thought the interest of the board members to be sufficient to disqualify them.⁷³²

There is, however, a “presumption of honesty and integrity in those serving as adjudicators,”⁷³³ so that the burden is on the objecting party to show a conflict of interest or some other specific reason for disqualification of a specific officer or for disapproval of the system. Thus, combining functions within an agency, such as by allowing members of a State Medical Examining Board to both investigate and adjudicate a physician’s suspension, may raise substantial concerns, but does not by itself establish a violation of due process.⁷³⁴ The Court has also held that the official or personal stake that school board members had in a decision to fire teachers who had engaged in a strike against the school system in violation of

⁷²⁹ *Tumey v. Ohio*, 273 U.S. 510 (1927)); *In re Murchison*, 349 U.S. 133 (1955).

⁷³⁰ *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970).

⁷³¹ *Marshall v. Jerrico*, 446 U.S. 238, 242 (1980); *Schweiker v. McClure*, 456 U.S. 188, 195 (1982).

⁷³² *Gibson v. Berryhill*, 411 U.S. 564 (1973). Or, the conduct of deportation hearings by a person who, while he had not investigated the case heard, was also an investigator who must judge the results of others’ investigations just as one of them would some day judge his, raised a substantial problem which was resolved through statutory construction). *Wong Yang Sung v. McGrath*, 339 U.S. 33 (1950).

⁷³³ *Schweiker v. McClure*, 456 U.S. 188, 195 (1982); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975); *United States v. Morgan*, 313 U.S. 409, 421 (1941).

⁷³⁴ *Withrow v. Larkin*, 421 U.S. 35 (1975). Where an administrative officer is acting in a prosecutorial, rather than judicial or quasi-judicial role, an even lesser standard of impartiality applies. *Marshall v. Jerrico*, 446 U.S. 238, 248–50 (1980) (regional administrator assessing fines for child labor violations, with penalties going into fund to reimburse cost of system of enforcing child labor laws). But “traditions of prosecutorial discretion do not immunize from judicial scrutiny cases in which enforcement decisions of an administrator were motivated by improper factors or were otherwise contrary to law.” *Id.* at 249.