BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CALIFORNIA CHILDREN'S SERVICES.	OAH CASE NO. 2013060096 ORDER DENYING CHALLENGE FOR CAUSE

On July 12, 2013, Student filed a challenge for cause seeking to disqualify Administrative Law Judge (ALJ) Margaret M. Broussard from hearing this case. As of the date of this order, no response has been filed by California Children's Services.

APPLICABLE LAW

An ALJ may be disqualified for bias, prejudice, or interest in the proceeding. (Gov. Code, § 11425.40, subd. (a).) The following, without further evidence of bias, prejudice, or interest, are not by themselves grounds for disqualification: 1) the ALJ 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) the ALJ 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; or 3) the ALJ has as a lawyer or public official participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding. (Gov. Code, § 11425.40, subd. (b).)

In other words, 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.) For example, in order to be a basis for disqualification, the financial interest of the ALJ in the outcome of the case must be direct, personal, and substantial, rather than slight. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1031.) Similarly, personal involvement in the case by the ALJ or familial connections may warrant disqualification based solely on the probability of bias. (See *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170-1173.) However, in most other cases, including claims of bias arising from the hearing officer's personal or political views, disqualification will not occur absent a showing of actual bias. (*Haas*, *supra*, at p. 1032.)

DISCUSSION

In this matter, Student seems to allege that the ALJ has a personal view regarding Student's attorney that may be bias as a result of her former employment by Student's attorney. However, Student has alleged no actual bias and no bias was described in any declaration made under penalty of perjury.

The undersigned ALJ did work for Student's attorney. However, that employment, as an attorney, occurred for less than one year and took place more than ten years ago. The ALJ harbors no bias, for or against Student's attorney, as a result of her employment. The ALJ has no knowledge regarding Student as a result of her previous employment with Student's attorney. Student has alleged no facts, and the ALJ is aware of no facts, that constitute bias regarding Student's attorney and accordingly, the challenge for cause is denied.

ORDER

1. Student's challenge of ALJ Margaret M. Broussard is denied.

2. All dates previously set in this matter are confirmed.

Dated: July 15, 2013

/s/
MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings