BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT	OAH Case No. 2017010971
V.	ORDER DENYING CHALLENGE FOR CAUSE
KERN HIGH SCHOOL DISTRICT	

On March 17, 2017, Kern High School District filed a challenge for cause, seeking to disqualify the undersigned, Administrative Law Judge Rita Defilippis, from hearing this case.

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.)

Kern asserts that the undersigned ALJ should disqualify herself from hearing the instant case because, before becoming an ALJ, the undersigned represented students in matters where the counsel for Kern or her firm represented school districts. Kern specifically refers to a case filed with OAH in September, 2016 which involved a different student, a different district, and a different attorney than the case at hand. Further, the undersigned ALJ

was not the attorney for student in that due process action, but represented the student prior to due process. The only commonality between that case and the instant one is that Kern's counsel works for the same law firm as the attorney for the different district in the other matter. Kern has already used a peremptory challenge in this matter, which was granted on March 10, 2017.

Kern has not demonstrated any probable or actual bias or prejudice on the part of the undersigned ALJ towards Kern or its counsel. The undersigned ALJ holds no bias or prejudice towards either Kern or its counsel and has no financial interest in the outcome of this case. Accordingly, Kern's challenge for cause is denied.

ORDER

1. Kern's challenge of ALJ Rita Defilippis is denied.

2. All dates previously set in this matter will remain on calendar.

IT IS SO ORDERED.

DATE: March 20, 2017

DocuSigned by:
Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings