

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MORGAN HILL UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2016030186

ORDER DENYING CHALLENGE FOR
CAUSE

On March 25, 2016, Student filed a challenge for cause seeking to disqualify the undersigned, Administrative Law Judge Alexa Hohensee.

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.)

The undersigned ALJ worked for two years, in approximately 2002 and 2003, for the Southern California office of a state-wide special education firm, Lozano Smith, that currently represents District in this matter. The undersigned became a Judge Pro Tem for the Office of Administrative Hearings approximately seven years ago, and has been an Administrative Law Judge for OAH since January 2012. The employment with Lozano Smith is remote, and the undersigned has no financial or personal interest in Lozano Smith.

The undersigned hereby finds that she is free from bias, prejudice or interest in this due process proceeding and can be free and impartial in the conduct of, and rendering a decision in, this proceeding.

ORDER

Student's challenge of ALJ Hohensee is denied.

DATE: March 25, 2016

DocuSigned by:

A handwritten signature in black ink that reads "Alexa Hohensee". The signature is written in a cursive style.

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ALEXA J. HOHENSEE

Administrative Law Judge

Office of Administrative Hearings