BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016050945
v.	ORDER COMPELLING EXPERT OBSERVATION OF PROPOSED PLACEMENT
LOS ANGELES UNIFIED SCHOOL DISTRICT.	

On May 14, 2016, Parents filed with the Office of Administrative Hearings a Request for Due Process hearing (complaint), naming Los Angeles Unified School District. The complaint alleged, in pertinent part, that District at a May 19, 2015, individualized educational program team meeting, made an offer of an inappropriate placement in general education at Woodland Hills Academy for the 2015-16 school year, with related services of a full time one-to-one aide. Parents did not accept the placement offer, and informed District they would enroll Student for the 2015-16 school year at Bridges Academy, a private school. The complaint sought reimbursement for the expenses incurred at Bridges. The dispute is set for hearing before OAH on July 12, 2016.

Attached to the complaint was a Motion to Compel Expert Observation, seeking an order compelling District to permit Student's expert, Dr. Jonine Nazar-Biesman, Psy-D, to observe the offered Woodland Hills Academy placement. The Motion was accompanied by a declaration of Student's counsel outlining attempts to negotiate the observation with District, which had not resulted in a definitive District's response. OAH has received no opposition to the Motion.

APPLICABLE LAW AND DISCUSSION

Education Code section 56329, subdivision (b), states that a parent has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, if the parent disagrees with an assessment obtained by the public education agency. Further, if a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

In *Benjamin G. v. Special Education Hearing Office* (2005) 131 Cal.App.4th 875, the court construed the above authorities to confer upon parents the right to an independent

observation of a proposed placement before the hearing is held so that the student and his parents are in a position to challenge the proposed placement at the hearing. The court found that the right to such an observation was not contingent upon the pendency of an independent educational assessment.

These authorities indicate that Parents have a right in preparation for the due process hearing to have an expert observe the placement that District proposed. The Motion is therefore granted.

ORDER

1. Parents' expert Dr. Jonine Nazar-Biesman, Psy-D shall be permitted to observe the placement proposed at the May 19, 2015 IEP, specifically the general education setting at Woodland Hills Academy, prior to the conclusion of the current school year.

2. The parties are ordered on or before next Tuesday, May 31, 2016, to meet and confer regarding the specific date, time and duration of the observation.

3. Should any specific disputes arise concerning the date, time, duration or any other conditions under which the observation will occur, the parties may seek subsequent relief from the undersigned as to the particulars upon which they disagree.

DATE: May 25, 2016

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June Lehrman
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JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings