BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010546

ORDER DENYING MOTION TO COMPEL DISTRICT TO CONTRACT WITH STUDENT'S CHOSEN INDEPENDENT EDUCATIONAL EVALUATION ASSESSOR, ALLOW ASSESSOR ACCESS TO A LOS ANGELES EDUCATIONAL SITE OR PROGRAM, AND PRODUCE EDUCATIONAL RECORDS

APRIL 10, 2025

On, January 21, 2025, Student filed a request for due process hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District as respondent. On January 30, 2025, OAH granted the parties' joint request for mediation and continuance of the hearing, scheduling the prehearing conference for April 15, 2025, and hearing to begin on April 29, 2025.

On April 1, 2025, Student filed a "Motion for an Order Directing Respondent to Contract with the IEE Evaluator and Allow Access to the Site/Program and for Student's Educational Records Including Protocols and Notes." On April 4, 2025, Los Angeles filed an opposition to Student's motion. On April 8, 2025, Student filed a reply to District's opposition.

The title of Student's motion does not accurately set forth the motion's content. The motion seeks an order requiring Los Angeles to contract with Student's preferred Independent Educational Evaluation assessor at a rate exceeding Los Angeles' maximum allowable cost. The motion alleges no denial of access to a school site or program.

NO SUMMARY JUDGMENT IN SPECIAL EDUCATION CASES

Student alleges that she requested independent educational evaluations in speech and language and psychoeducation on July 19, 2024, that were granted. However, According to Student, Los Angeles would only agree to contract with Student's chosen assessor if she would accept Los Angeles' maximum allowable fee for the assessments. Los Angeles argues that Student is attempting to circumvent the due process hearing by raising an issue identical to one alleged in Student's complaint in this motion, thereby essentially seeking summary judgment.

Special education law does not provide for a summary judgment procedure to determine an issue prior to hearing. Here, Issue number 6 in Student's complaint alleges the exact issue Student raises in this motion: that Los Angeles should be required to pay an amount exceeding its maximum allowed cost for Student's chosen Independent Educational Evaluations. Student offers no persuasive legal authority authorizing OAH to issue a prehearing ruling on a disputed issue regarding whether Los

Angeles is obligated to pay an amount that exceeds it usual maximum fee allowed for psychoeducational or speech and language assessments.

Student asserts that OAH's authority to issue such an order is supported by Code of Federal Regulations, title 34, part 300.502(d), entitled "Requests for evaluations by Hearing Officers." That regulation states, "if a hearing officer requests an evaluation as part of a due process hearing, the cost of the evaluation must be at public expense." Student argues this regulation would allow OAH to order the evaluation during hearing or as a remedy. Student fails to explain how this regulation provides legal support for Student's request that OAH make a ruling prior to hearing, ordering Los Angeles to contract with Student's chosen independent assessor, when there is a dispute regarding whether Los Angeles is required to pay an amount for the assessor exceeding the district's maximum allowable cost.

Whether Los Angeles has wrongfully denied Student an independent educational evaluation is a mixed question of law and fact that requires consideration during an evidentiary hearing. Student's request to compel Los Angeles to contract with her preferred independent educational evaluation assessor at a rate exceeding Los Angeles' cap prior to hearing is denied.

STUDENT'S REQUEST FOR AN ORDER REQUIRING LOS ANGELES TO ALLOW STUDENT'S EXPERT ACCESS TO A SCHOOL SITE IS PREMATURE

After describing the observations allowed to district assessors, Student asserts, "Dr. Epport will require comparable classroom and recess observations of the district's proposed program at Mayberry Street Elementary." However, nowhere in the motion does Student allege their preferred assessor has ever been denied access to observe

Student in school. Student's motion for an order allowing her assessor access to a school site or program to which the assessor has not been denied is premature.

STUDENT'S REQUEST FOR EDUCATIONAL RECORDS DUPLICATES A REQUEST MADE IN A SEPARATE MOTION THAT WAS DENIED

Student's request for production of educational records duplicates Student's motion to compel subpoena compliance, which was denied in OAH's August 8, 2025, order. As the ruling on this issue has already been made, a separate ruling is not necessary will not be made here.

ORDER

1. Student's motion to compel Los Angeles to immediately fund Student's preferred independent educational evaluation assessor is denied.
2. Student's motion to compel Los Angeles to allow her assessor access to a school site or program is denied as being premature.
3. Student's motion to compel educational records was denied for the reasons stated in OAH's April 8, 2025, Order.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings