BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

HUENEME ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2025040813

ORDER DENYING MOTION TO COMPEL OBSERVATION

NOVEMBER 20, 2025

On October 14, 2025, Student moved to obtain an order compelling Hueneme to allow Student's expert to observe him in his current classroom. On October 17, 2025, Hueneme filed an opposition.

GOVERNING LAW

A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists if the parent or guardian disagrees with an assessment obtained by the district. (Ed. Code, § 56329, subd. (b).)

If a public education agency observed the pupil in conducting its own assessment, an equivalent opportunity shall apply to an independent educational

assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency. (Ed. Code, § 56329, subd. (c).)

DISCUSSION

Student has been receiving special education and services pursuant to an individualized education program, called an IEP. Student claims he is eligible for special education, and that Hueneme acted unlawfully in proposing to exit him from special education. Hueneme contends Student is not eligible in any category.

Student was a fifth grader at Hueneme's Sunkist Elementary School during the 2024-2025 school year He entered Hueneme's E.O. Greene Middle School in August 2025 as a sixth grader, where he remains in general education but is still receiving special education and services pursuant to the stay put rule. (20 U.S.C. section 1415(j).)

In June 2025, after a series of assessments, Hueneme decided Student was no longer eligible in any category, and proposed an IEP that would exit him from special education. Parents declined to sign the exit IEP. Instead, they disagreed with Hueneme's recent psychoeducational assessment and requested an independent educational evaluation. Hueneme granted the request, and Student's assessor Dr. Stephanie Torres assessed Student in class on May 23, 2025, for one and one-half hours, and on June 9, 2025, for one hour. On September 21, 2025, Dr. Torres requested an additional observation of Student at his new middle school, "as part of his IEE." The District declined to allow the additional observation on the ground that the IEE had already been completed and provided to the District.

Student's IEP team met on September 29, 2025, and Dr. Torres presented her assessment report to the team. The team met again on October 10, 2025, at which time

Hueneme informed Parents that it still believed that Student was no longer eligible for special education and services in any category. Hueneme again asked Parents to sign an IEP that would exit Student from special education, but Parents declined to sign it.

Student then filed for a due process hearing. Thereafter, Student filed the motion to compel Hueneme to allow Dr. Torres to assess Student in his sixth-grade class at E.O. Greene

EQUIVALENT OPPORTUNITY

Hueneme's school psychologist Erin Murphy observed Student in his class over four sessions, each lasting 20-30 minutes. Dr. Torres observed him in his class on May 23, 2025, for one and one-half hours, and on June 9, 2025, for one hour.

Dr. Torres appears to have observed Student for at least on half hour more than the school's observer. Hueneme has provided Student with the equivalent opportunity to assess that the law requires.

COMPLETION OF IEE

Dr. Torres finished her written report on or about August 21, 2025, and on August 25, 2025, Student's attorney sent a copy of Dr. Torres's assessment report to Hueneme's attorney. Dr. Torres presented her report to the IEP team at its meeting on September 29, 2025.

Student's claim that Dr. Torres still needs to "finish" her IEE does not square with these facts. Nothing in the law requires Hueneme to reopen a finished IEE already provided to the district.

Student repeatedly refers to Student's current educational environment as his new placement. That term is inaccurate. Student is in his current environment solely as

a result of the stay put rule. Hueneme has not proposed that environment as his placement. It has not proposed any special education placement for Student since it seeks to exit him from special education. The law requires that a district allow "observation of an educational placement and setting, if any, proposed by the public education agency." (Ed. Code, § 56329, subd. (c).) That rule does not apply to Student's current educational environment.

Matriculation from elementary to middle school is not, by itself, a new placement. It is a normal part of a student's advancement from grade to grade. (*R.F. Frankel v. Delano Union School District,* (E.D. Cal 2016) 224 F. Supp. 3d, 979, *citing, Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified School Dist.* (C.D. Cal. 2005) 353 F.Supp.2d 1083, 1086.)

Student argues that if Dr. Torres cannot observe Student at E.O. Greene, he will be deprived of the opportunity to have his expert give well-informed testimony to counter the District's evidence. That assumes, however, that Dr. Torres is not prepared to go to hearing on the basis of her previous observations. Conducting an IEE and testifying about it at a hearing are not separate compartments. They are parts of the same process. Dr. Torres's testimony would predictably be about her IEE. Students' IEE assessors routinely testify at hearings without requiring a second observation. Special

education law does not allow for discovery akin to civil cases, and a second observation threatens to bypass that rule.

For the reasons above, Student's motion to compel observation is DENIED.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings