BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ROSEVILLE JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021030073

ORDER GRANTING MOTION TO COMPEL OBSERVATION

MAY 11, 2021

On May 6, 2021 Student filed a motion to compel Roseville to permit Paula Solomon, PhD, to observe Student's educational placement at Challenge High School. At the May 10, 2021 prehearing conference, the motion was argued, and the undersigned Administrative Law Judge permitted Roseville to submit written opposition to the motion by May 11, 2021.

Student argues that the observation is part of an independent educational evaluation, or IEE, and is therefore authorized by Education Code section 56329, which states: "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 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, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding." (Ed. Code, § 56329, subd. (c).)

Roseville argues that in the absence of proof, such as a signed contract for services, it cannot be established that an IEE is actually underway. Roseville further argues that an observation merely for purposes of discovery is not permitted, therefore Student must establish that the IEE is actually occurring for Education Code section 56329 to apply.

Student's counsel submitted a declaration with his motion, stating that he had "confirmed" to Roseville's counsel "that Dr. Solomon's efforts to conduct observations of are part of an independent educational evaluation." This representation by counsel, under penalty of perjury, that the IEE is underway, suffices to establish Student's entitlement to the observation.

Therefore, Dr. Solomon shall be permitted to observe Student's placement at Challenge High School for the requested one hour and 20 minutes, on a date and time to be determined between the parties. If the parties are unable to agree upon a date

and time for the observation, further motion practice may be necessary to resolve that dispute.

IT IS SO ORDERED.

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings