BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014010895
v.	ORDER GRANTING DISTRICT'S MOTION TO COMPEL OBSERVATION
GARDEN GROVE UNIFIED SCHOOL DISTRICT.	

On March 10, 2014, Garden Grove Unified School District (District) filed a Motion to Compel Observation (Motion), seeking an order allowing it to observe Student for two hours, at her private placement. On March 13, 2014, Student filed a response. On March 13, 2014, District filed a reply. On March 14, 2014, Student filed a response to District's reply. As discussed below, the Motion is granted.

APPLICABLE LAW AND DISCUSSION

Education Code section 56329, subdivision (d) states: "If a parent or guardian proposes a publicly financed placement of the pupil in a nonpublic school, the public education agency shall have an opportunity to observe the proposed placement and the pupil in the proposed placement, if the pupil has already been unilaterally placed in the nonpublic school by the parent or guardian."

Here, Student has been parentally placed at Oak Grove Residential Treatment Facility (Oak Grove). Student's due process hearing request (complaint) alleges that District denied Student a free appropriate public education (FAPE), and it requests remedies of reimbursement and continued placement at Oak Grove. Thus, Education Code section 56329, subdivision (d) applies. District is entitled to observe Student at that placement.

Student's responses to District's Motion argue that: (1) District's Motion is untimely, and is merely a makeweight for District's concurrently-filed Motion to Continue the hearing in this matter; and (2) District has already observed Student at Oak Grove as part of its triennial assessment of Student in December2012-January 2013. Student's arguments are rejected. The Motion to Continue will be addressed by separate Order and does not render the current Motion untimely nor unmeritorious. The triennial assessment notwithstanding, Education Code section 56329, subdivision (d) clearly gives District the right to observe a placement when funding for it is requested, as in the complaint.

ORDER

District' Motion to Compel Observation is granted. District may conduct a two-hour observation of Student in her placement at Oak Grove.

DATE: March 14, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings