

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 12-9713-CAS (PJWx)	Date	July 25, 2013
Title	C.L. V. LUCIA MAR UNIFIED SCHOOL DISTRICT		

Present: The Honorable	CHRISTINA A. SNYDER		
Catherine Jeang	Not Present	N/A	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants		
Not present	Not present		

Proceedings: (In Chambers:) **DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS** (filed June 24, 2013) [23]

The Court finds this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing date of July 29, 2013, is vacated, and the matter is hereby taken under submission.

On December 14, 2011, plaintiff C.L., a minor, filed a request for a due process hearing with the California Office of Administrative Hearings ("OAH"), alleging that the minor was denied a free appropriate public education as a result of defendant Lucia Mar Unified School District's ("the District") actions. Def.'s Ex. B at 1-2.

After a six-day hearing before an OAH Administrative Law Judge ("ALJ"), a "Decision" was rendered on August 10, 2012, finding in favor of the District on all issues raised by plaintiff. At the conclusion of this decision, the ALJ advised the parties that "they have the right to appeal this decision to a state court of competent jurisdiction. Appeals must be made within 90 days of receipt of this decision. A party may also bring a civil action in United States District Court." This decision was sent via overnight courier and facsimile to the parties that same day.

On August 13, 2012, the ALJ issued a "Corrected Decision," which was also sent to the parties by facsimile and overnight courier that same day. The only change made in this Corrected Decision was the name of the District in the case caption. On August 14, 2012, the ALJ issued a second "Corrected Decision," which was also sent to the parties that same day. The only change made to this decision was that the name of the District was corrected in the body of the decision. As with the first decision issued by the ALJ,

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the decision stated that “[a]ppeals must be made within 90 days of receipt of this decision.”

On November 13, 2012, plaintiff lodged an appeal in this Court. Defendant moved for judgment on the pleadings on June 24, 2012. Defendant’s sole argument in support of its motion is that plaintiff’s appeal is untimely, on the grounds that the ALJ issued its “final decision” on August 10, 2012, and that the subsequent “Corrected Decisions” only made ministerial corrections, which did not commence a new time period in which to file an appeal.

The Court concludes that plaintiff’s appeal is timely and therefore denies defendant’s motion for judgment on the pleadings. The Individuals With Disabilities Education Act (“IDEA”) provides that a party appealing the decision of a hearing officer “shall have 90 days from the date of the decision of the hearing officer to bring such an action, or if the State has an explicit time limitation for bringing such action under this subchapter, in such time as the State law allows.” 20 U.S.C. § 1415(i)(2)(B). California Education Code § 56505(k) adopts the federal time limitation and requires that an appeal “be made within 90 days of receipt of the hearing decision.”

Here, the ALJ’s final “Corrected Decision” unequivocally states that “[a]ppeals must be made within 90 days of receipt of this decision,” in accordance with the time limit provided for under the California Education Code. Plaintiff thus had ninety days from the date of this second Corrected Decision, by its plain terms, within which to file her appeal. Moreover, because the ninetieth day after receipt of this decision fell on a federal holiday—November 12, 2012—plaintiff had an additional day in which to file an appeal. See Cal. Educ. Code § 9. Plaintiff did so on November 13, 2012, and therefore the Court concludes that plaintiff’s appeal is timely.

In accordance with the foregoing, defendant’s motion for judgment on the pleadings is DENIED.

IT IS SO ORDERED.

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CMJ