

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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**CIVIL MINUTES - GENERAL**

Case No.	CV 12-9713 (CAS) (PJWx)	Date	August 30, 2013
Title	C.L. V. LUCIA MAR 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:) PLAINTIFF’S MOTION FOR LEAVE TO SUBMIT ADDITIONAL EVIDENCE (Docket #'s 37 and 38, filed August 12, 2013, and Docket #39, filed August 13, 2013)

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 September 9, 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.

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.

On November 13, 2012, plaintiff lodged an appeal in this Court, pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et. seq. (“IDEA”). Defendant moved for judgment on the pleadings on June 24, 2012. By order dated July 25, 2013, this Court denied defendant’s motion.

On August 13, 2013, plaintiff moved for leave to submit additional evidence to supplement to the administrative record pursuant to 20 U.S.C. § 1415(i)(C)(ii). Defendant filed an opposition on August 26, 2013.

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Plaintiff argues that this additional evidence, contained in Exhibits A through I appended to its motion, is necessary to prove that defendant failed to properly implement plaintiff’s individualized education program (“IEP”), failed to properly implement plaintiff’s behavior intervention plan (“BIP”), and failed to offer plaintiff a free appropriate public education (“FAPE”). Pl. Mot. Submit 9.

In response, defendant argues that the additional evidence is irrelevant or otherwise barred by a settlement agreement between the parties dated January 13, 2011. Def. Opp. Mot. Submit 3-10.

In an appeal from an administrative decision under the IDEA, a district court “shall hear additional evidence at the request of a party.” While the determination about what additional evidence to admit is left to the district court’s discretion, the court must not “change the character of the hearing from one of review to a trial de novo.” Ojai Unified School Dist. v. Jackson, 4 F.3d 1467, 1473 (9th Cir. 1993)(quoting Town of Burlington v. Dep’t of Educ., 736 F.2d 773, 791 (1st Cir. 1984)). Additional evidence should supplement, not duplicate evidence heard at the administrative hearing. Id.

The Court concludes that the evidence proffered by plaintiff is supplemental and not duplicative.

In accordance with the foregoing, plaintiff’s motion to submit additional evidence contained in Exhibits A through I is GRANTED. However, defendant may renew its objections at the time of trial in this matter.

IT IS SO ORDERED.

Initials of Preparer \_\_\_\_\_ : \_\_\_\_\_  
CMJ