

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

L. R., et al.,
Plaintiffs,
v.
PAJARO VALLEY UNIFIED SCHOOL
DISTRICT,
Defendant.

Case No.15-cv-00368-NC
**ORDER RE: MOTION TO
SUPPLEMENT THE RECORD**
Re: Dkt. No. 38

On June 1, 2015, plaintiffs moved to supplement the administrative record in this Individuals with Disabilities Education Act (“IDEA”) administrative appeal. Dkt. No. 38. Plaintiffs requested that nine additional pieces of evidence be permitted to supplement the record. Id. Plaintiffs argue that these pieces of evidence are relevant, non-cumulative, and necessary for the Court’s determination of the case. Id. Defendant objected to eight of the nine pieces of evidence, arguing that the evidence was available to plaintiffs and could have been presented at the administrative hearing, so it should be excluded. Dkt. No. 44. A chart detailing the evidence requested to supplement the record is attached to the end of this order.

IDEA mandates that the district court “shall hear additional evidence at the request of a party.” 20 U.S.C. § 1415(i)(2)(C)(ii). “[E]vidence that is non-cumulative, relevant, and otherwise admissible constitutes ‘additional evidence’ that the district court ‘shall’ consider pursuant to 20 U.S.C. § 1415(i)(2)(C)(ii).” E.M. ex rel. E.M. v. Pajaro Valley Case No.:15-cv-00368-NC

1 Unified Sch. Dist. Office of Admin. Hearings, 652 F.3d 999, 1005 (9th Cir. 2011).

2 The Court has considered the parties' briefing, the appropriate standard, and the
 3 evidence presented by plaintiffs. The Court finds that the evidence, items 1-6, are relevant
 4 and non-cumulative and are thus admitted. Evidence item 9 is not objected to and is
 5 admitted. Evidence items 7 and 8 are not relevant to the review of the administrative
 6 decision, as these pieces of evidence post-date the scope of the administrative hearing's
 7 inquiry. Therefore, items 7 and 8 are excluded.

9	1. L.R.'s 2010-2011 and 2013-2014 Report Cards.	ADMITTED
10	2. Report of Assessment for Special Education dated Dec. 21, 2010.	ADMITTED
11	3. Report of Informal Conference dated 3/15/2011.	ADMITTED
12	4. Behavioral Observation of L.R. at Lindamood-Bell dated 12/19/2011.	ADMITTED
13	5. Behavioral Support Plan dated 11/30/2011.	ADMITTED
14	6. A work/writing sample completed by L.R. in January 2012.	ADMITTED
15	7. Dr. Cheryl Bowers C.V.	EXCLUDED
16	8. L.R.'s End of Year Report Card from Chartwell Academy.	EXCLUDED
17	9. Page 18 of Dr. Cheryle Bowers' report dated August 18, 2011.	ADMITTED

21 **IT IS SO ORDERED.**

23 Dated: July 29, 2015



 NATHANAEL M. COUSINS
 United States Magistrate Judge