

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

T.B., et al., : CIVIL ACTION
Plaintiffs :
 :
v. :
 :
UPPER DUBLIN SCHOOL DISTRICT, :
et al., :
Defendants : NO. 03-2120

MEMORANDUM AND ORDER

McLaughlin, J.

November 17, 2003

The plaintiffs in this action are Elizabeth and Peter Bell and their son, T.B., who is a disabled child diagnosed with pervasive developmental disorder - not otherwise specified ("PDD-NOS"). T.B. was enrolled in the Upper Dublin School District ("District") during the 1999-2000 school year and until November 2000 of the 2000-01 school year. The plaintiffs assert that they withdrew T.B. in November 2000 because of inadequacies in his individualized education plan ("IEP") and the defendants' failure to implement the IEP. The parents then placed him in a community and home based program at their expense through August 2001. The plaintiffs allege that T.B. was deprived of a meaningful education during that time period.

On July 1, 2003, the plaintiffs filed an amended complaint. The plaintiffs name the District and Susan Shenberger

as defendants.¹ The plaintiffs allege causes of action under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. ("IDEA"), § 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 ("§ 504"), and 42 U.S.C. § 1983. The plaintiffs seek reimbursement for educational costs or a compensatory education for T.B., as well as compensatory and punitive damages and attorneys' fees.

The defendants have moved to dismiss the amended complaint on four grounds: (1) the plaintiffs-parents lack standing to bring claims in their own right because the IDEA does not confer substantive rights upon parents; (2) the plaintiffs have failed to state a claim against the defendant Shenberger under § 504 because there is no individual liability under that statute; (3) the plaintiffs cannot recover punitive damages against the District under any theory; and (4) the plaintiffs cannot recover punitive damages against either defendant under the IDEA or § 504.

In their opposition to the defendants' motion to dismiss, the plaintiffs clarify their claims in a way that moots some of the defendants' argument. They explain that: (1) the plaintiffs-parents do not bring suit individually in their own right, but only on behalf of their minor child; (2) the

¹ The plaintiffs' amended complaint identifies the defendant Shenberger as the Director of Special Education and Student Services for the defendant District.

plaintiffs are not pursuing a § 504 claim against the defendant Shenberger individually; (3) the plaintiffs are not pursuing punitive damages against the defendant District under § 504 or § 1983, but only under the IDEA; and (4) the plaintiffs are not pursuing punitive damages against either defendant under § 504, but only under the IDEA. Insofar as the defendants' motion to dismiss relates to these four issues, the motion is granted as uncontested.

The only issue left for the Court to decide is whether the plaintiff can recover punitive damages under the IDEA. The defendants raise this issue in two separate arguments, namely, that punitive damages are not available at all under the IDEA and that the IDEA does not authorize punitive damages specifically against a municipality. The Court holds that punitive damages are not available under the IDEA.

The Court is persuaded by the defendants' argument that the Supreme Court decision in Barnes v. Gorman, 536 U.S. 181 (2002) provides the appropriate analysis for determining whether punitive damages are available under certain statutes. In Barnes, the Supreme Court held that Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., as well as § 202 of the ADA, 42 U.S.C. § 12132, and § 504 of the Rehabilitation Act, does not authorize punitive damages. Id. at 186. In making its decision, the Court reasoned that Title VI was enacted under the

Spending Clause, and because conditions are placed on the grant of federal funds under Title VI, an analogy to contract law is appropriate. Punitive damages are not traditionally available for breach of contract and, therefore, are not available under Title VI. Id. at 185-86.

The Barnes analysis is applicable here. The IDEA has funding conditions similar to Title VI. See S.H. v. State-Operated Sch. Dist. of the City of Newark, 336 F.3d 260, 264 (3d Cir. 2003) (citing 20 U.S.C. § 1412) (holding that “[f]ederal funding of state special education programs is contingent on the states providing a ‘free and appropriate education’ to all disabled children”). The contract law analogy is then proper, which leads to the conclusion that punitive damages are not available under the IDEA.²

An appropriate Order follows.

² Even before the Supreme Court decided Barnes, this Court held that punitive damages are unavailable against a municipal defendant under the IDEA. Dombrowski v. Wissahickon School District, No. 01-5094, 2001 U.S. Dist. LEXIS 24185, at *8 (E.D. Pa. Dec. 17, 2001). Based on the Third Circuit’s ruling in Doe v. County of Centre, Pa., 242 F.3d 437, 456 (3d Cir. 2001) that municipalities are free from punitive damages unless there is a showing of congressional intent otherwise, the Court ruled that there was no evidence that the IDEA was intended to authorize punitive damages against municipal defendants. 2001 U.S. Dist. LEXIS 24185, at *8. See also Susavage v. Bucks County Intermediate Unit No. 22, No. 00-6217, 2002 U.S. Dist. LEXIS 1274, at *56-58 (E.D. Pa. Jan. 22, 2002); Joseph M. v. Southeast Delco Sch. Dist., No. 99-4645, 2001 U.S. Dist. LEXIS 2994, at *37 (E.D. Pa. Mar. 19, 2001).

