

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

MAXINE McCLENDON, et al. : CIVIL ACTION
: :
v. : NO. 04-1250
: :
SCHOOL DISTRICT OF :
PHILADELPHIA :

MEMORANDUM AND ORDER

Juan R. Sánchez, J.

October 29, 2004

The parents of three children have sued the School District of Philadelphia, alleging the District has failed to provide services promised under the students' Individualized Education Plans (IEP). The School District argues creatively, even if ultimately unsuccessfully, the cause of action arises from the contract rather than the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*

FACTS

The IDEA is a comprehensive scheme of federal legislation designed to meet the special educational needs of children with disabilities. *Dellmuth v. Muth*, 491 U.S. 223, 225, 109 S.Ct. 2397, 105 L.Ed.2d 181 (1989). Under the IDEA, assistance is available to states that meet a number of substantive and procedural criteria. 20 U.S.C. § 1412(a)(1)-(a)(22); *W.B. v. Matula*, 67 F.3d 484, 491 (3d Cir. 1995). The cornerstone of eligibility for federal funds under the IDEA is the substantive right of disabled children to a free appropriate public education (FAPE). 20 U.S.C. § 1412(a)(1); *Beth V. v. Carroll*, 87 F.3d 80, 82 (3d Cir.1996). States provide a FAPE through an individualized education program (IEP). 20 U.S.C. 1414(d). The IEP must be “reasonably calculated” to enable the child to receive “meaningful educational benefits” in light of the student's “intellectual potential.”

Board of Educ. of Hendrick Hudson Central Sch. Dist., Westchester County, v. Rowley, 458 U.S.176, 206-07 (1982); *Polk v. Cent Susquehanna Interm. Unit 16*, 853 F.2d 171, 181 (3d Cir.1988).

In addition to the condition of ensuring free, appropriate public education, the IDEA requires states to guarantee certain procedural rights to qualify for funding. *M.A. ex rel. E.S. v. State-Operated School Dist. of City of Newark*, 344 F.3d 335, 338 (3d Cir. 2003). Under Section 615, dissatisfied parents may challenge a school district's determinations in a due process hearing before a state administrative law judge. 20 U.S.C. § 1415(e).

The parents in this case aver the School District induced them to relinquish their rights to a due process hearing in return for settlement agreements for IEPs the School District knew it could not fulfill. The School District claims its Motion to Dismiss for Lack of Subject Matter Jurisdiction under Fed. R. Civ. P. 12(b)(1) should be granted because the case does not present a federal question, only enforcement of the contracts.

DISCUSSION

When the challenges to subject matter jurisdiction under Rule 12 contest the sufficiency of the pleadings, a trial court must accept the complaint's allegations as true. *NE Hub Partners, L.P. v. CNG Transmission Corp.*, 239 F.3d 333, 341 & n.7 (3d Cir. 2001). Dismissals under Rule 12(b)(1) are limited to cases in which the federal claim is "immaterial and made only for the purpose of obtaining federal jurisdiction" or the "claim is wholly insubstantial and frivolous." *Steel Co. v. Citizens for a Better Env't.*, 523 U.S. 83, 104 (1998).

Section 615 provides, "[t]he district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy." 20 U.S.C. § 1415(i)(3)(A). Any party aggrieved by the findings and decision of the due process hearing has the right to appeal to either state court or federal court. *T.M.A. ex rel. E.S. v. State-Operated School Dist.*

of *City of Newark*, 344 F.3d 335, 343 (3d Cir. 2003). The question is whether parents aggrieved by the implementation of an IEP also have the right of appeal to federal court.

The Third Circuit has affirmed federal court jurisdiction in cases involving settlement agreements under the IDEA. *D.R. by M.R. v. East Brunswick Bd. of Educ.*, 109 F.3d 896, 898 (3d Cir. 1997). The court held damages under the IDEA derive from a civil rights action under 42 U.S.C. § 1983.¹ *W.B. v. Matula*, 67 F.3d 484, 496 (3d Cir. 1995); *see also Jeremy H. v. Mount Lebanon School District*, 95 F.3d 272, 279 (1996); *Reid v. School District of Philadelphia*, 2004 WL 1926324 (E.D. Pa. 2004). Actions under Section 1983 raise a federal question sufficient to satisfy jurisdiction under 28 U.S.C. § 1331.²

Several recent district court decisions have not questioned the court's jurisdiction to enforce

¹Section 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1983.

²Section 1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 U.S.C. § 1331.

IDEA contracts. See *T.B. v. Upper Dublin School District*, 2003 WL 22717391, 2 (holding punitive damages not available under the IDEA because punitive damages are not available for breach of contract); *Valentino C. v. School Dist. of Philadelphia*, 2004 WL 225038, 4 (E.D. Pa. 2004) (holding plaintiffs not required to exhaust administrative remedies before bringing a claim based on the district's failure to implement an IEP); see also *Joseph M. v. Southeast Delco School Dist.*, 2001 WL 283154, 6-7 (E.D. Pa. 2001); *O.F. v. Chester Upland School Dist.*, 2000 WL 424276 (E.D. Pa. 2000); *McKellar v. Commonwealth of Pennsylvania*, No. 98-4161, 1999 WL 124381 (E.D. Pa. 1999).

The School District's novel argument fails in the face of settled practice in the circuit, which comports with the congressional intent to create a comprehensive scheme for the delivery of special education services. Accordingly, we enter the following:

ORDER

And now this 29th day of October, 2004, Defendant's Motion to Dismiss (document 3) is DENIED.

BY THE COURT:

Juan R. Sánchez, J.