

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

LAUREN ASHLEY DEFEO	:	
	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
	:	
ROSE TREE MEDIA SCHOOL DISTRICT	:	NO. 06-744
	:	
	:	
Defendant.	:	

Baylson, J.

February 20, 2007

Defendant, Rose Tree Media School District (“Defendant”) moves to dismiss Plaintiff, Lauren Ashley Defeo’s (“Plaintiff”) First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), and, in the alternative, for a more definite statement pursuant to Fed. R. Civ. P. 12(e). For the reasons set forth below, Defendant’s motion will be granted in part and denied in part.

I. Background

Plaintiff initiated this action on February 21, 2006 (Doc. No. 1). The First Amended Complaint (Doc. No. 8) was filed on July 20, 2006. Defendant filed the instant motion (Doc. No. 10) on July 31, 2006, to which Plaintiff responded (Doc. No. 11) on August 17, 2006.

The First Amended Complaint is not divided into separate counts or claims, but is rather a “running narrative” of allegations. It alleges violations of Plaintiff’s rights under the constitutions of the United States and the Commonwealth of Pennsylvania, as well as Plaintiff’s statutory rights under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400, et seq., and Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. § 1681.

(Compl. ¶¶ 24, 27, 28, 31.) Plaintiff further alleges she is entitled to relief under common law and 42 U.S.C. § 1983. (Id. ¶ 33.)

The First Amended Complaint does not contain allegations of specific actions or omissions on the part of Defendant. Instead, Plaintiff claims she was a child of school age suffering from “brain and central nervous system deficits entitling her to special education,” and that she “attend[ed] the Springton Lake Middle School, located in the Defendant’s school district,” “at all material times.” (Compl. ¶¶ 6, 9.) During this time, Defendant allegedly failed to provide Plaintiff with appropriate educational services, and fostered a “dangerous educational environment” at the school. (Id. ¶¶ 10, 11.) According to Plaintiff, Defendant, by and through its agents, knew or should have known that Plaintiff was subjected to harassment and physical abuse by fellow students. (Id. ¶¶ 17, 18.) Moreover, Plaintiff claims Defendant “extended disparate treatment” to Plaintiff based upon her gender as well as her status as a disabled person. (Id. ¶ 14, 15.)

II. Jurisdiction and Venue

This Court has jurisdiction over Plaintiff’s federal constitutional and statutory claims pursuant to 28 U.S.C. § 1331. Supplemental jurisdiction over Plaintiff’s state-law claims is granted by 28 U.S.C. § 1367(a). Venue is proper under 28 U.S.C. § 1391(b).

III. Parties’ Contentions

A. Defendant’s Motion

Defendant attacks Plaintiff’s claims on several grounds, proceeding according to each statute or constitutional section cited by the Plaintiff. Defendant relies on the Sea Clammers doctrine, which holds that when a federal statute provides its own enforcement scheme a plaintiff

may not bypass that scheme by resort to a § 1983 claim, see Middlesex County Sewerage Auth. v. Nat'l Sea Clammers Ass'n, 453 U.S. 120 (1983), to argue for dismissal of all of Plaintiff's claims premised on 42 U.S.C. § 1983 and the Fourteenth Amendment. Defendant maintains these claims are subsumed by the Title IX claim. Defendant further contends Plaintiff's § 1983 claims must be dismissed, even if they are not subsumed by her Title IX claim, because the allegedly violative acts were performed by private actors, and education is not a fundamental constitutional right to which Plaintiff is entitled. According to Defendant, the Title IX claim merely contains bald assertions of liability, and has failed to allege an adequate factual basis which would support the claim. As such, any claims falling under Title IX must also be dismissed.

Defendant challenges both Plaintiff's gender-based and disability-based Equal Protection claims. Defendant asserts Plaintiff has not alleged any disparate treatment. Additionally, Defendant suggests the gender discrimination claim fails as a matter of law because Plaintiff does not allege a lack of a rational basis for disparate treatment, and her disability discrimination claim fails because the equal protection clause does not protect the disabled as a matter of law.

As to the IDEA claim, Defendant argues this must be dismissed because Plaintiff has failed to exhaust her administrative remedies.

Defendant also moves to dismiss both of Plaintiff's Pennsylvania state law claims. According to Defendant, neither Art. III, Sec. 14, nor Art. I, Sec. 28 of the Pennsylvania Constitution provide for private causes of action.

Finally, Defendant argues that even if the Court does not dismiss the case, Plaintiff should be required to make a more definite statement as to when the alleged violative actions

took place, pursuant to Fed. R. Civ. P. 12(e).

B. Plaintiff's Response

Plaintiff acknowledges the applicability Sea Clammers to this case, and purports to have raised this issue to protect the record if appeal is taken. However, Plaintiff contends § 1983 nevertheless affords a cause of action in this case because the Pennsylvania Constitution grants the right to education as a property right, thereby entitling Plaintiff to protection under the Fifth and Fourteenth Amendments to the United States Constitution, pursuant to 42 U.S.C. § 1983. Plaintiff also argues that her equal protection claims are claims under Pennsylvania law, rather than federal law as Defendant indicates.

Plaintiff disputes Defendant's assertion that state action is not implicated in this case. Plaintiff argues Defendant is liable for the hostile environment she experienced at school. Plaintiff invokes the "state-created danger" doctrine, and asserts the existence of a "special relationship" between Plaintiff and Defendant to lay responsibility onto Defendant for the harms caused by third parties.

IV. Discussion

A. 12(b)(6) Motion

When deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), the Court may look only to the facts alleged in the complaint and its attachments. Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1251, 1261 (3d Cir. 1994). The Court must accept as true all well-pleaded allegations in the complaint and view them in the light most favorable to the plaintiff. Angelastro v. Prudential-Bache Sec., Inc., 764 F.2d 939, 944 (3d Cir. 1985). A Rule 12(b)(6) motion will be granted only when it is certain that no relief could be granted under any

set of facts that could be proved by the plaintiff. Ransom v. Marrazzo, 848 F.2d 398, 401 (3d Cir. 1988).

1. Claims brought pursuant to the IDEA

The IDEA requires states which accept federal funding for the education of disabled children to guarantee those children a “free and appropriate public education.” 20 U.S.C. § 1415(a). In addition, the IDEA requires these states to provide procedural safeguards by which disabled children and their parents may enforce this guarantee, including mediation and various administrative proceedings. 20 U.S.C. § 1415(b); Jeremy H. by Hunter v. Mount Lebanon Sch. Dist., 95 F.3d 272, 278 (3d Cir. 1996). As a final measure, “[a]ny party aggrieved by the findings and decision made under” the IDEA has the right to bring a civil action in a State court of competent jurisdiction, or in a federal district court, regardless of the amount in controversy. 20 U.S.C. § 1415(i)(2)(A). The statute also requires the court to receive records from the administrative proceedings, hear additional evidence the parties may present, and base its decision on the preponderance of the evidence. 20 U.S.C. § 1415(i)(2)(C).

In the instant case, Plaintiff has not indicated the existence of any prior proceedings. Indeed, Plaintiff’s only allegation to support her IDEA claim states, “Defendant failed and refused to provide appropriate educational services for the Plaintiff, both generally and in the area of special education.” (Compl. ¶ 26.) However, appeal to a district court requires an aggrieved party to have completed all preliminary procedures under the IDEA, partly because the preliminary procedures “provide a means to develop a complete factual record.” Kominos v. Upper Saddle River Board of Education, 13 F.3d 775, 779 (3d Cir. 1994) (*citing* Smith v. Robinson, 468 U.S. 992, 1011 (1984)).

A district court may exempt plaintiffs from completing the administrative process where exhaustion would be futile or inadequate, where the issue presented is purely a legal question, or where the administrative agency cannot grant relief. Id. at 778. Here, Plaintiff has not alleged the existence, let alone exhaustion, of any administrative procedures. Moreover, nothing in the First Amended Complaint suggests that any of the foregoing exceptions should apply. Therefore, Plaintiff has not alleged facts which would entitle her to relief in this Court under the IDEA. The motion to dismiss as to Plaintiff's IDEA claims will be granted without prejudice so Plaintiff can exhaust administrative remedies.

2. Claims brought pursuant to 42 U.S.C. § 1983

“[W]hen a state official is alleged to have violated a federal statute which provides its own comprehensive enforcement scheme, the requirements of that enforcement procedure may not be bypassed by bringing suit directly under § 1983.” Sea Clammers, 453 U.S. at 20 (1981) (internal quotations omitted). Thus, federal “constitutional claims are ‘subsumed’ in Title IX.” Williams v. Sch. Dist. of Bethlehem, 998 F.2d 168, 176 (3d Cir. 1993) (citing Pfeiffer v. Marion Center Area Sch. Dist., 917 F.2d 779 (3d Cir. 1990)). The Court must heed “the Supreme Court’s admonition that courts should exercise restraint before reaching federal constitutional claims.” Id. Accordingly, claims under § 1983 which allege violations of Plaintiff’s equal protection rights are dismissed as subsumed by her Title IX claim.

Plaintiff’s IDEA claims brought under § 1983 cannot be similarly dismissed under Sea Clammers, however. As the Third Circuit clarified, the admonition against deciding constitutional claims unnecessarily does not apply when § 1983 is invoked to redress a claim under federal law rather than the federal Constitution. Powell v. Ridge, 189 F.3d 387, 403 (3d

Cir. 1999). Thus, “section 1983 provides an adequate vehicle for a suit to enforce an IDEA *administrative decision.*” Jeremy H. by Hunter, 95 F.3d at 278 (emphasis added) (reversing a dismissal for failure to exhaust administrative remedies when plaintiffs filed their § 1983 suit after defendant allegedly failed to implement an Individualized Education Plan developed pursuant to the IDEA); Joseph M. ex rel. Kimberly F. v. Southeast Delco Sch. Dist., No. 99-4645, 2001 WL 283154 (E.D. Pa. May 19, 2001) (denying motion to dismiss § 1983 claim when plaintiff alleges failure to implement an Individualized Education Plan developed pursuant to the IDEA); W.B. v. Matula, 67 F.3d 1995 (3d Cir. 1995) (finding § 1983 action to be an appropriate means of addressing violations of the IDEA).¹ However, Plaintiff has not alleged the existence of an administrative decision to be enforced by this Court. For the same lack of allegations in Plaintiff’s claim brought directly under the IDEA, the § 1983 claim for violations of the IDEA will be dismissed without prejudice as well.

3. Remaining Claims

Plaintiff claims gender discrimination in several paragraphs of the First Amended Complaint, in violation of Title IX and the Pennsylvania Equal Rights Amendment, Pa. Const. art. I, § 28. Plaintiff brings an additional § 1983 claim, alleging an unlawful interference of Plaintiff’s property interest in a public education as guaranteed by Pa. Const. art. III, § 14, in violation of the Fourteenth Amendment. Disposition of these claims will be stayed until Plaintiff has exhausted administrative remedies under the IDEA.

¹ We also note the Third Circuit will shortly be revisiting, *en banc*, these issues as decided in A.W. v. Jersey City Public Schools, 341 F.3d 234 (3d Cir. 2003) (holding that the IDEA imposes a constitutional waiver of States’ sovereign immunity), possibly further illuminating the precise nature of the interaction between the IDEA and § 1983 as it was first described by the Court in Matula.

V. Conclusion

An appropriate order follows.

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

LAUREN ASHLEY DEFEO,	:	
	:	
Plaintiff,	:	
	:	Civil Action
v.	:	
	:	No. 06-0744
ROSE TREE MEDIA SCHOOL DISTRICT,	:	
	:	
Defendant.	:	

Baylson, J.

February 20, 2007

AND NOW, this 20th day of February, 2007, upon consideration of Defendant's Motion to Dismiss, and Motion for a More Definite Statement (Doc. No. 10), and Plaintiff's Answer thereto (Doc. No. 11), it is hereby ORDERED that Plaintiff's claims pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq., are DISMISSED without prejudice, for exhaustion of administrative remedies. As to the balance of Defendant's Motion, without deciding the merits thereof, it is hereby further ORDERED as follows:

1. All proceedings are stayed until further Order of the Court;
2. The case shall be transferred to the Civil Suspense File;
3. The Clerk of the Court shall mark this case closed for statistical purposes;
4. The Court shall retain jurisdiction over the case and the case shall be returned to the Court's active docket in 90 days or upon further order of the Court; and
5. The entry of this Order shall not prejudice the rights of the parties to this litigation.

BY THE COURT:

/s/ Michael. M. Baylson

Michael M. Baylson, U.S.D.J.