

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

KESHA R. HUDSON-HARRIS,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:16-cv-00245-TWP-DML
)	
AMANDA PICKRELL, Principal,)	
MRS. NONTE, Teacher,)	
)	
Defendants.)	

Entry Discussing Supplement and Directing Further Proceedings

I. Complaint and Supplement

In the Entry of February 2, 2016, Plaintiff was instructed to supplement her Complaint, by reporting what specific constitutional, statutory, or other federally protected rights the defendants are alleged to have violated; so that the Court could determine whether it has jurisdiction to hear the matter. (*See* Dkt. 4.) A Supplement to Complaint was filed on March 23, 2016. (Dkt. 7.) In her Supplement, the Plaintiff alleges that the Defendants, Principal Amanda Pickrell, and a teacher, Mrs. Nonte, at George H. Fisher IPS School 93, acted unlawfully by denying or delaying her son’s I.E.P. testing. Her son has many impairments and Plaintiff was not provided any progress reports from his teacher. Plaintiff also alleges that Mrs. Nonte wrongfully disciplined her son by using excessive discipline, isolating him and traumatizing him. She seeks compensatory damages and injunctive relief.

Plaintiff alleges that the Defendants violated her son’s rights by violating the No Child Left Behind law and the Individuals with Disabilities Education Improvement Act (“IDEA”). She states that the IDEA requires states to provide a free, appropriate public education (“FAPE”) in

the least restrictive environment. She alleges that her due process request outlined in that statute was ignored. Her son ultimately had to have an administrative transfer to another school, at which he continued to feel traumatized.

The No Child Left Behind Act, 20 U.S.C. § 6031, *et seq.*, does not provide a private right of action for enforcement. *Horne v. Flores*, 557 U.S. 433, 456 n.6 (2009). That statute “is enforceable only by the agency charged with administering it.” *Id.* Therefore, the plaintiff’s claim brought under the No Child Left Behind Act is **dismissed for failure to state a claim upon which relief can be granted.**

The IDEA, 20 U.S.C. § 1400, *et seq.*, requires that any State educational agency that receives assistance under that statute must “maintain procedures ... to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education...” Section 1415. After the administrative proceedings have been completed, any party aggrieved of the findings and decision shall have the right to bring a civil action in a district court of the United States. Section 1415(i)(2)(A).

The proper defendant in a claim brought under the IDEA is the “local educational agency.” 20 U.S.C. 1413; *Stanek v. St. Charles Community Unit School District*, 783 F3d 634, 640 (7th Cir. 2015). The IDEA claims asserted against Principal Amanda Pickrell and Mrs. Nonte are **dismissed for failure to state a claim upon which relief can be granted.**

The Court construes the *pro se* plaintiff’s IDEA claim as being brought against the Board of School Commissioners of the City of Indianapolis and **the clerk shall substitute that entity as the sole defendant.** That is the only claim that shall proceed in this action.

II. Service of Process

The clerk is designated pursuant to *Fed. R. Civ. P.* 4(c) to issue process to defendant Board of School Commissioners of the City of Indianapolis in the manner specified by Rule 4(d). Process shall consist of the complaint filed on January 28, 2016 (Dkt. 1), the supplement filed on March 23, 2016 (Dkt. 7), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

IT IS SO ORDERED.

Date: 3/28/2016



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS IN ADDITION TO DOCKETING AND DISTRIBUTION.