

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

NANCY ELLEN HEARD,

Plaintiff,

vs.

HELENA-WEST HELENA SCHOOL
DISTRICT,

Defendant.

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No. 2:10cv00180 SWW

ORDER

Plaintiff Nancy Heard brings this employment discrimination action against defendant Helena-West Helena School District alleging violations of Title I of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 *et seq.*¹ In response to plaintiff’s complaint, defendant has filed a “Answer and Motion to Dismiss” that was docketed both as an Answer [doc.#12] and a motion to dismiss [doc.#13].

The Court denies without prejudice defendant’s motion to dismiss [doc.#13]. Any motions filed by either party must comply with the Local Rules of the United States District

¹Although plaintiff filed her complaint using a form “Complaint under Title VII of the Civil Rights Act of 1964,” plaintiff’s complaint and Charge of Discrimination filed with the Equal Employment Opportunity Commission (EEOC) make clear that she is not proceeding under Title VII but rather is alleging violations of Title I of the ADA.

Plaintiff also named as a defendant the Arkansas Department of Education. In this Court’s Order [doc.#4] that granted plaintiff’s motion for leave to proceed in forma pauperis , the Court noted that plaintiff may not proceed against the Arkansas Department of Education under Title I of the ADA as states and their agencies, of which the Arkansas Department of Education is one, enjoy sovereign immunity from lawsuits seeking money damages that are filed pursuant to Title I of the ADA, which prohibits employment discrimination on the basis of disability. Accordingly, the Court *sua sponte* dismissed the Arkansas Department of Education as a defendant (noting as well that plaintiff’s EEOC charge only listed Helena-West Helena School District as a defendant and that plaintiff failed to set forth any allegations whatsoever against the Arkansas Department of Education). The Court noted, however, that under Arkansas law, school districts are not considered part of state government for purposes of sovereign immunity under the Eleventh Amendment, and so plaintiff’s ADA action against separate defendant Helena-West Helena School District was allowed to proceed.

Court for the Eastern and Western Districts of Arkansas, including Local Rule 7.2.

IT IS SO ORDERED this 12th day of January 2011.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE