

1 no reason to do so as the violations” are “against [her] son . . . and not [herself].”¹ (Id.)

2 Plaintiff’s filing then “present[ed] to this court” a series of questions. (Id. at 2.)

3 On February 23, 2017, defendants filed a motion to dismiss this action pursuant to Rule
4 41(b) of the Federal Rules of Civil Procedure. (ECF No. 46.) That motion is noticed for hearing
5 before the undersigned on April 7, 2017. On March 24, 2017, plaintiff filed an opposition to
6 defendants’ motion. (ECF No. 47.)

7 Although plaintiff has failed to file a second amended complaint in the time provided,
8 plaintiff’s filings will be construed as a request for an extension of time to comply with the
9 December 12, 2016 order. That request will be granted. Plaintiff is cautioned, however, that
10 further extensions of time will not be granted absent a showing of good cause. Although the
11 court is cognizant of the difficulties faced by pro se litigants, all parties appearing before this
12 court must abide by the Local Rules, the orders of this court, and the Federal Rules of Civil
13 Procedure.

14 Accordingly, for the reasons stated above, IT IS HEREBY ORDERED that:

15 1. Defendants’ February 23, 2017 motion to dismiss (ECF No. 46) is denied without
16 prejudice and the April 7, 2017 hearing is vacated;

17 2. Within twenty-eight days from the date of this order, a second amended complaint
18 shall be filed that cures the defects noted in this order and complies with the Federal
19 Rules of Civil Procedure and the Local Rules of Practice.² The amended complaint must bear the
20 case number assigned to this action and must be titled “Second Amended Complaint.”³;

21 ¹ As plaintiff was informed in the December 12, 2016 order, the “IDEA includes provisions
22 conveying rights to parents as well as to children.” Winkelman ex rel. Winkelman v. Parma City
23 School Dist., 550 U.S. 516, 529 (2007); see also Chambers ex rel. Chambers v. School Dist. Of
24 Philadelphia Bd Of Educ., 587 F.3d 176, 183 (3rd Cir. 2009) (“Under Winkelman, therefore,
25 parents undoubtedly have substantive rights under the IDEA that they may enforce by prosecuting
26 claims brought under that statute on their own behalf.”); Simon v. Hartford Life, Inc., 546 F.3d
27 661, 666 (9th Cir. 2008) (“Based on the statutory scheme, Winkelman held that parents have their
28 own, enforceable right under the IDEA to the substantive adequacy of their child’s education;
therefore, parents may prosecute IDEA claims on their own behalf.”).

² Alternatively, if plaintiff no longer wishes to pursue this action plaintiff may file a notice of
voluntary dismissal of this action pursuant to Rule 41 of the Federal Rules of Civil Procedure.

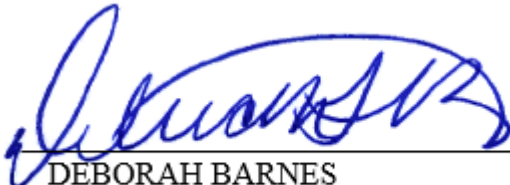
³ In drafting the second amended complaint, plaintiff should carefully review the December 12,
2016 order, as well as the Federal Rules of Civil Procedure and the Local Rules.

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3. Plaintiff shall complete proper service on the defendants within twenty-eight days of the filing of any second amended complaint; and

4. Plaintiff is again cautioned that the failure to comply with this order in a timely manner may result in a recommendation that this action be dismissed.

Dated: March 30, 2017



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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