

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

MGJ, et al.	:	CIVIL ACTION
	:	
v.	:	NO. 17-318
	:	
SCHOOL DISTRICT OF PHILADELPHIA, et al.	:	

ORDER

AND NOW, this 25th day of May 2017, upon considering Defendants’ Motions to Dismiss (ECF Doc. Nos. 10 and 11), Defendant Carson Valley Children’s Aid’s Notice of joinder (ECF Doc. No. 12), Plaintiffs’ responses (ECF Doc. Nos. 13 and 14), having converted Defendant School District of Philadelphia’s Motion to dismiss (ECF Doc. No. 11) on the affirmative defense of release to a motion for summary judgment under Fed.R.Civ.P. 56 in our April 28, 2017 Order (ECF Doc. No. 15) which afforded the parties an opportunity to supplement the record to address Defendants’ affirmative defense of a release, and upon considering the additional materials submitted by Plaintiff (ECF Doc. Nos. 18 and 19), it is **ORDERED** the Defendants’ Motions to dismiss or for summary judgment based on a release (ECF Doc. Nos. 10 and 11) are **GRANTED in part** and **DENIED in part**:

1. Release under Rule 56.

a. We dismiss only the Section 504 Rehabilitation Act claim against the School District, Carson Valley, Colette Langston, Jodi Roseman, and Lisa Lynch;

2. School District under Rule 12(b)(6).

a. We dismiss the 42 U.S.C. § 1983 claims against the School District;

b. Plaintiff may proceed under Title IX, Title II of the Americans with Disabilities Act, intentional infliction of emotional distress, breach of fiduciary duty, punitive damages, and

breach of contract under the Individuals with Disabilities Education Act;

3. Individual District Defendants under Rule 12(b)(6).

a. We dismiss Plaintiff's claims arising from negligence, punitive damages under the pled federal statutes, 42 U.S.C. § 1983, and Title II of the Americans with Disabilities Act;

b. Plaintiff may under state law for intentional infliction of emotional distress, breach of fiduciary duty, and punitive damages.

4. Carson Valley under Rule 12(b)(6).

a. We dismiss Plaintiff's claims under Title IX, 42 U.S.C. § 1983, and Title II of the Americans with Disabilities Act;

b. Plaintiff may proceed under state law for intentional infliction of emotional distress, negligence, and punitive damages; and,

5. Amended Complaint. No later than **June 2, 2017**, Plaintiff shall file an Amended Complaint to, among other things, identify each named party, streamline the allegations under Fed.R.Civ.P. 8, and, if warranted by the facts and Fed. R. Civ. P. 11, replead a dismissed claim.



KEARNEY, J.