IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

T.H. as next friend T.B., et al., Plaintiffs, v. DEKALB COUNTY SCHOOL DISTRICT, et al., Defendants.	CIVIL ACTION FILE NO. 1:19-CV-3268-TWT

OPINION AND ORDER

This is a civil rights action. It is before the Court on Defendant Melody Maddox's Motion to Dismiss for Failure to State a Claim [Doc. 41]. For the following reasons, Defendant Melody Maddox's Motion to Dismiss for Failure to State a Claim [Doc. 41] is DENIED.

I. Background

Named Plaintiffs T.H. and J.B. are students with cognitive and behavioral impairments that they allege are qualifying disabilities under Title II of the Americans With Disabilities Act ("ADA"), 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. § 794, and that entitle them to special education services under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq. See* First Am.

Compl. ¶¶ 8-31 [Doc. 35].[1] The Plaintiffs allege that they did not receive the special education services to which they were entitled during periods of incarceration at the DeKalb County Jail (the "Jail"). *Id.* They seek declaratory and injunctive relief on their own behalf and on behalf of two putative Rule 23(b)(2) classes comprised of similarly situated youths who have been or will be denied special education services while incarcerated at the Jail. *Id.* ¶ 95. DeKalb County Sheriff Melody Maddox, who is sued in her official capacity as the head of the DeKalb County Sheriff's Office,[2] moves to dismiss all claims against her.

II. Legal Standard

A complaint should be dismissed under Rule 12(b)(6) only where it appears that the facts alleged fail to state a "plausible" claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009); Fed.R.Civ.P. 12(b)(6). A complaint may survive a motion to dismiss for failure to state a claim, however, even if it is "improbable" that a plaintiff would be able to prove those facts; even if the possibility of recovery is extremely "remote and unlikely." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007) (citations and quotations omitted). In

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[1] Named Plaintiff T.B. is Plaintiff T.H.'s mother. First Am. Compl. ¶ 20.

[2] At the time that this lawsuit was filed, the DeKalb County Sheriff was Jeffrey Mann. Sheriff Mann has since retired, and Sheriff Maddox has been substituted in as a Defendant pursuant to Federal Rule of Civil Procedure 25(d).

ruling on a motion to dismiss, the court must accept factual allegations as true and construe them in the light most favorable to the plaintiff. *See Quality Foods de Centro America, S.A. v. Latin American Agribusiness Dev. Corp., S.A.*, 711 F.2d 989, 994–95 (11th Cir. 1983); *see also Sanjuan v. American Bd. of Psychiatry and Neurology, Inc.*, 40 F.3d 247, 251 (7th Cir. 1994) (noting that at the pleading stage, the plaintiff "receives the benefit of imagination"). Generally, notice pleading is all that is required for a valid complaint. *See Lombard's, Inc. v. Prince Mfg., Inc.*, 753 F.2d 974, 975 (11th Cir. 1985), *cert. denied*, 474 U.S. 1082, 106 S.Ct. 851, 88 L.Ed.2d 892 (1986). Under notice pleading, the plaintiff need only give the defendant fair notice of the plaintiff's claim and the grounds upon which it rests. *See Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citing *Twombly*, 550 U.S. at 555).

III. Discussion

The Plaintiffs allege that the Georgia Department of Education, the DeKalb County School District, and the DeKalb County Sheriff's Office fail to identify, evaluate, and provide special education services for eligible youths detained at the Jail in violation of the IDEA, Title II of the ADA, and Section 504 of the Rehabilitation Act. Congress enacted the IDEA "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment,

and independent living[.]" 20 U.S.C. § 1400(d)(1)(A). State and local educational agencies that receive funding under the IDEA must implement policies and procedures to identify, locate, evaluate, and provide special education and related services for children with qualifying disabilities. *Id.* §§ 1411-1414.

Title II of the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. Section 504 of the Rehabilitation Act states that "[n]o otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a). Courts apply the same standards to claims brought under either statute. *See Cash v. Smith*, 231 F.3d 1301, 1305 (11th Cir. 2000) ("Discrimination claims under the Rehabilitation Act are governed by the same standards used in ADA cases[.]"); *Silva v. Baptist Health S. Fla., Inc.*, 856 F.3d 824, 830 (11th Cir. 2017) ("ADA and RA claims are governed by the same substantive standard of liability.").

Proof of discrimination in the context of the ADA and Section 504 requires "something more than a mere failure to provide the 'free appropriate

education' required by [the IDEA]." *J.S., III by & through J.S. Jr. v. Houston Cty. Bd. of Educ.*, 877 F.3d 979, 985 (11th Cir. 2017) (quoting *Sellers v. Sch. Bd. of City of Mannassas, Va.*, 141 F.3d 524, 529 (4th Cir. 1998)). There is, however, "'often some overlap in coverage' across these statutes[,] and… '[t]he same conduct might violate all three statutes.'" *Id.* (quoting *Fry v. Napoleon Cmty. Sch.*, 137 S. Ct. 743, 747 (2017)).

Sheriff Maddox seeks dismissal of the Plaintiffs' IDEA claims against her on the grounds that the DeKalb County Sheriff's Office is not a local educational agency and has no affirmative obligation under the IDEA or Georgia law to provide educational services for eligible youths incarcerated at the Jail. This argument is unavailing. Federal regulations stipulate that the IDEA applies "to all political subdivisions of the State that are involved in the education of children with disabilities, including… State and local juvenile and adult correctional facilities[.]" 34 C.F.R. § 300.2(b)(1)(iv). The IDEA contemplates that special education services will be provided to incarcerated youths with disabilities. 20 U.S.C. § 1412(a)(1)(B)(ii). The Court concludes that Sheriff Maddox can, at minimum, be liable under the IDEA for interfering with detained youths' ability to receive a free public education at the Jail.

The Sheriff correctly asserts that the IDEA leaves it to the States to specify which public agencies are responsible for providing special education services to incarcerated youths, *see Los Angeles Unified Sch. Dist. v. Garcia*,

669 F.3d 956, 960 (9th Cir. 2012) (citing 20 U.S.C. § 1412(a)(11)), and contends that the State of Georgia's purported failure to identify the Sheriff's Office as a special education services provider absolves the Sheriff of liability in this case. But the question of whether the Sheriff is ultimately responsible for providing the resources and personnel necessary to instruct incarcerated youths at the Jail goes to the scope and nature of the remedy, not to the Sheriff's liability under the IDEA. The Plaintiffs in this case have plausibly alleged that Sheriff Maddox interfered with their right to special education services by failing to identify them as special needs students and by failing to collaborate with state and local educational agencies to ensure that their needs were met. The Court declines to dismiss the Plaintiffs' IDEA claims with respect to the Sheriff.

The Sheriff's argument for dismissal of the Plaintiffs' ADA and Section 504 claims fares no better. Correctional facilities must provide reasonable accommodations for detainees whose rights are protected under the ADA and Section 504. *Bircoll v. Miami-Dade Cty.*, 480 F.3d 1072, 1081 (11th Cir. 2007) (citing *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 211 (1998)). Beyond a recitation of the general test for liability under the ADA and Section 504, the Sheriff cites no authority to support the proposition that she cannot be liable as a matter of law for the conduct described in the Plaintiffs' Amended Complaint. Insofar as the Sheriff intends to repackage the same arguments

that she made with respect to the Plaintiffs' IDEA claim, the Court finds them unpersuasive for reasons that the Court has already given. The Court will not dismiss the Plaintiffs' ADA and Section 504 claims with respect to the Sheriff.[3]

IV. Conclusion

For the reasons stated above, Defendant Melody Maddox's Motion to Dismiss for Failure to State a Claim [Doc. 41] is DENIED.

SO ORDERED, this 11 day of March, 2020.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge

[3] The Sheriff repeatedly insists that, as of May of 2019, the Sheriff's Office has collaborated with local educational agencies to send personnel into the Jail to instruct incarcerated youths with disabilities. Mere reference to an agreement that is not referenced in the Amended Complaint and has not been presented to the Court provides no basis for dismissal of the Plaintiffs' claims.