

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

LESLY METHELUS, ROSALBA ORTIZ,  
ZOILA LORENZO, ANGE MARIE  
JOSEPH, EMILE ANTOINE and  
LUCENIE HILAIRE DUROSIER, on  
behalf of Y.M., a minor, on behalf of  
themselves and all others similarly  
situated

Plaintiffs,

v.

Case No: 2:16-cv-379-FtM-38MRM

THE SCHOOL BOARD OF COLLIER  
COUNTY, FLORIDA and KAMELA  
PATTON,

Defendants.

\_\_\_\_\_ /

**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Mac R. McCoy. ([Doc. 26](#)). Judge McCoy recommends denying without prejudice Plaintiffs' Motion for Class Certification ([Doc. 7](#)) and referring this case to him for entry of a Case Management and Scheduling Order. ([Doc. 26](#)). Plaintiffs object to the Report and Recommendation ([Doc. 29](#)), to which Defendants have responded

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(Doc. 39). After a *de novo* review of the parties' legal arguments, applicable law, and recommended findings, the Court adopts and affirms the Report and Recommendation.

## **BACKGROUND**

The facts of this case are discussed at length in the Report and Recommendation and need not be detailed herein. However, the Court will discuss those facts relevant to address the Report and Recommendation. On May 18, 2016, Plaintiffs filed this educational discrimination action for declaratory and injunctive relief. (Doc. 1). They allege that Defendants violated the Equal Educational Opportunities Act of 1974, Title VI of the Civil Rights Act of 1964, the Fourteenth Amendment's Equal Protection and Due Process Clauses, and Florida Education Equity Act, Fla. Stat. § 1000.05 et seq. (Doc. 1). Plaintiffs shortly thereafter filed a Motion for Class Certification. (Doc. 7).

On July 18, 2016, Defendants moved to dismiss the Complaint. (Doc. 24). The next day, Judge McCoy held a preliminary pretrial conference, at which the parties discussed case-management deadlines. (Doc. 25). The Court raised concerns that a determination of the Motion for Class Certification may be premature in light of additional class discovery possibly being needed and the motion to dismiss. After the preliminary pretrial conference, Plaintiffs filed an Amended Complaint, which Defendants moved to dismiss.

## **DISCUSSION**

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. See 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that

a district judge review factual findings *de novo*, [Garvey v. Vaughn](#), 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations, 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See [Cooper-Houston v. Southern Ry. Co.](#), 37 F.3d 603, 604 (11th Cir. 1994).

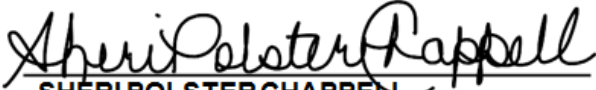
After independently examining the file and upon carefully considering Judge McCoy's findings and recommendations, the Court accepts the Report and Recommendation ([Doc. 26](#)) over Plaintiffs' objections.

Accordingly, it is now **ORDERED**:

The Report and Recommendation of United States Magistrate Judge Mac R. McCoy ([Doc. 26](#)) is **ACCEPTED and ADOPTED**, and the finding incorporated herein.

- (1) Plaintiffs' Motion for Class Certification ([Doc. 7](#)) is **DENIED without prejudice**.
- (2) The matter is **REFERRED** to the Honorable Mac R. McCoy to hold a second preliminary pretrial conference in order to (1) discuss both case-management deadlines and a new motion for class certification deadline; and (2) issue a Case Management and Scheduling Order.
- (3) The parties are directed to meet and confer *in person* in order to prepare an Amended Case Management Report, which they shall jointly file on or before **April 3, 2017**.

**DONE and ORDERED** in Fort Myers, Florida this 17th day of March, 2017.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record