

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

<b>JANE DOE, <i>individually and as</i></b> )		
<b><i>next friend of JOHN DOE,</i></b> )		
<b><i>a minor,</i></b> )		
<b>PLAINTIFF</b> )		
	)	
	)	
<b>v.</b> )		<b>No. 2:11-cv-025-DBH</b>
	)	
<b>REGIONAL SCHOOL UNIT NO. 21,</b> )		
	)	
<b>DEFENDANT</b> )		

**ORDER AFFIRMING RECOMMENDED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

On July 31, 2012, the United States Magistrate Judge filed with the court, with copies to counsel, his Recommended Findings of Fact and Conclusions of Law. The defendant filed an objection to the Recommended Decision on August 10, 2012, and the plaintiff filed a partial objection on August 17, 2012. Oral argument was held on February 28, 2013.

I have reviewed and considered the Recommended Findings of Fact and Conclusions of Law, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision. To be clear, like the Magistrate Judge, I do not read the Hearing Officer's decision or her ruling on the motion to amend as taking away any rights of the plaintiff. The plaintiff remained free to challenge the school's placement decision after

the functional behavior assessment and formal behavioral intervention plan were completed.

I do not, however, adopt the Magistrate Judge's statement at ¶ 42 that the plaintiff will not be able so to contend that she is the prevailing party if I adopt the Recommended Decision. Prevailing party status remains to be decided, once the parties argue the issue, if the plaintiff moves hereafter for attorney fees in accordance with Local Rule 54.2.

Otherwise, I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Findings of Fact and Conclusions of Law, and determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Findings of Fact and Conclusions of Law of the Magistrate Judge is hereby **ADOPTED**, except with respect to the prevailing party statement. The plaintiff's appeal and the defendant's counterclaim are **DENIED**.

**SO ORDERED.**

**DATED THIS 4<sup>TH</sup> DAY OF MARCH, 2013**

/s/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**