IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

FOREST GROVE SCHOOL DISTRICT,

Plaintiff-Appellant,

v.

STUDENT,

Defendant-Appellee.

Case No. 3:12-cv-1837-AC

ORDER ADOPTING FINDINGS AND RECOMMENDATION

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on July 10, 2013. Dkt. 27. Judge Acosta recommended that Plaintiff-Appellant's Motion to Stay (Dkt. 10) be granted. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Id.; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. See Thomas v. Arn, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report[.]"); United States. v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (the court must review de novo magistrate's findings and recommendations if objection is made, "but not otherwise").

Although review is not required in the absence of objections, the Act "does not preclude further review by the district judge[] sua sponte . . . under a de novo or any other standard." Thomas, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta's Findings and Recommendation for clear error on the face of the record. No such error is apparent. The Court discovered a typographical error on page four of the Findings and Recommendation where it states, "Granting the stay is proper if Student is the prevailing party." This sentence should read, "Granting the stay is proper if Student is not the prevailing party."

With the above noted correction, the Court **ADOPTS** Judge Acosta's Findings and Recommendation, Dkt. 27. Plaintiff-Appellant's Motion to Stay (Dkt. 10) is GRANTED.

IT IS SO ORDERED.

DATED this 30th day of July, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge