

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

POCONO MOUNTAIN SCHOOL DISTRICT	:	
	:	
	:	
Plaintiff	:	
v.	:	3:15-CV-764
	:	(JUDGE MARIANI)
T.D., by and through his Parent S.D.L.	:	
	:	
Defendant	:	

ORDER

AND NOW, THIS *20th* **DAY OF JULY, 2018**, upon *de novo* review of

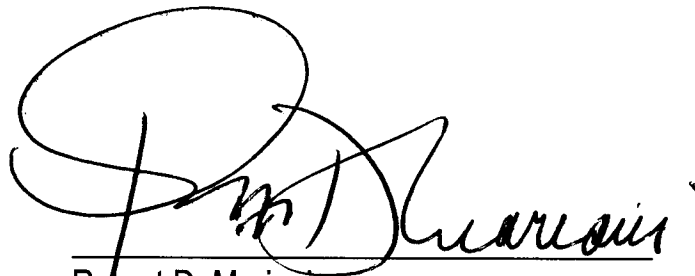
Magistrate Judge Carlson’s Report and Recommendation (Doc. 74), Plaintiff Pocono Mountain School District (the “District”)’s Objections thereto (Doc. 78), the District’s Motion for Judgment on the Administrative Record, or in the Alternative, for Summary Judgment (Doc. 42), Defendant T.D.’s Motion for Judgment on the Administrative Record (Doc. 54), and all supporting and opposing documents, **IT IS HEREBY ORDERED THAT:**

1. The District’s Objections (Doc. 78) are **SUSTAINED IN PART AND OVERRULED IN PART** for the reasons set forth in the accompanying memorandum opinion.
2. The R&R (Doc. 74) is **ADOPTED IN PART AND OVERRULED IN PART** for the reasons set forth therein as well as those set forth in the accompanying memorandum opinion, as set forth in paragraphs 3 and 4 below.

3. T.D.'s Motion for Judgment on the Administrative Record (Doc. 54) is **GRANTED IN PART AND DENIED IN PART** as follows:

- a. For the reasons set forth in the accompanying memorandum opinion, T.D.'s motion is **GRANTED AS MODIFIED**, such that the administrative hearing officer's findings that (1) T.D. is disabled under Section 504 of the Rehabilitation Act of 1973, 20 U.S.C. § 794 ("Section 504") and was denied a free and appropriate public education ("FAPE") and (2) T.D. was entitled to compensatory education per school day for a period of 26 school days are **AFFIRMED**.
- b. For the reasons set forth in the accompanying memorandum opinion, T.D.'s motion is **GRANTED** with respect to its request that this Court overturn the hearing officer's finding that T.D. was not disabled under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq. The hearing officer's conclusion that T.D. is not disabled under IDEA is T.D.'s **VACATED**.
- c. For the reasons set forth in the accompanying memorandum opinion, T.D.'s motion is **GRANTED AS MODIFIED**, such that the administrative hearing officer's award of tuition reimbursement for the 2013-14 and 2014-15 school years is **AFFIRMED** on the basis of statutory provisions under IDEA, rather than on the basis of a deliberate indifference finding under Section 504.

- d. For the reasons set forth in the R&R and this Court's accompanying memorandum opinion, T.D.'s motion is **DENIED** in all other respects.
4. The District's Motion for Judgment on the Administrative Record, or in the Alternative, for Summary Judgment (Doc. 42) is **GRANTED IN PART AND DENIED IN PART** as follows:
- a. For the reasons set forth in the accompanying memorandum opinion, the District's motion is **GRANTED** with respect to its request that this Court vacate the hearing officer's finding that the District acted with deliberate indifference under Section 504. The hearing officer's conclusion that the District acted with deliberate indifference towards T.D. under Section 504 is **VACATED**.
- b. For the reasons set forth in the R&R and this Court's accompanying memorandum opinion, the District's motion is **DENIED** in all other respects.
5. The Clerk of Court is directed to **CLOSE** this case.

A handwritten signature in black ink, appearing to read "R. D. Mariani", written over a horizontal line.

Robert D. Mariani
United States District Judge