

2020 WL 1674119

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United States District Court, D. Oregon.

Brad ANDREWS, Plaintiff,

v.

TREASURE VALLEY COMMUNITY COLLEGE;
Treasure Valley Community College Nursing
Program; and Mendy Stanford, Defendants.

Case No. 2:19-cv-1314-SU

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Signed 04/06/2020

Attorneys and Law Firms

[Shawn E. Logan](#), Logan Law P.C., Ontario, OR, for Plaintiff.

[Haley E. Percell](#), Michael A. Miller, Oregon School Boards
Association, Salem, OR, for Defendants.

ORDER

[Michael H. Simon](#), District Judge.

*1 U.S. Magistrate Judge Patricia Sullivan issued Findings and Recommendation in this case on March 18, 2020. ECF 21. Judge Sullivan recommended that the Court grant Defendants' motions to dismiss (ECF 5 and ECF 14) and dismiss this action without prejudice. Plaintiff did not file an objection.

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 an objection to a magistrate judge'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).

In addition, for those portions of a magistrate judge's findings and recommendations to which neither party has objected, 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 to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, 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 judge's recommendations for "clear error on the face of the record."

The Court has reviewed the Findings and Recommendation of U.S. Magistrate Judge Sullivan (ECF 21) and adopts them. The Court grants Defendants' motions to dismiss (ECF 5 and ECF 14) and dismisses this action without prejudice.

IT IS SO ORDERED.

All Citations

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