

DOCKET NO. 027-SE-1017

STUDENT, B/N/F PARENT	§ § §	BEFORE A SPECIAL EDUCATION
VS.	§	HEARING OFFICER
CONROE INDEPENDENT SCHOOL DISTRICT	§ §	FOR THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

(hereinafter “Petitioner” or “the student”),
brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. §1400, et seq., complaining of Conroe Independent School District

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(hereinafter “Respondent” or “the district”). The request was expedited according to 20 U.S.C. §1415(k)(3) and 34 C.F.R. §300.532.

Petitioner appeared pro se. The district was represented by Amy C. Tucker, an attorney in Houston with the law firm of Rogers, Morris & Grover, L.L.P.

Petitioner’s request for hearing was filed on October 3, 2017, and came on for hearing on November 1, 2017, in the offices of the district in Conroe, Texas. Both parties filed written closing arguments and this decision is timely issued on November 15, 2017.

Petitioner alleged that: 1) the district improperly predetermined the result of a Manifestation Determination Review (“MDR”) in considering a disciplinary change in the student’s placement, and 2) the district incorrectly determined whether the student’s conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability.

Petitioner made no claim that the conduct in question was the direct result of the district’s failure to implement the student’s individual education plan (“IEP”).

As relief, Petitioner sought an order invalidating the determination of the MDR and the disciplinary change in placement.

Based upon the evidence and argument of the parties, the Hearing Officer makes the following findings of fact and conclusions of law:

Findings of Fact

1. The student was born in *** and qualifies for special education and related services as a student with Other Health Impairment (“OHI”) based upon a diagnosis of Attention Deficit Hyperactivity Disorder (“ADHD”). [Petitioner’s Exhibit 1; Respondent’s Exhibit 1; Transcript Pages 12-13]

2. The student attends the *** grade and resides with the student’s parent in the Conroe Independent School District. [Petitioner’s Exhibit 1; Respondent’s Exhibit 1; Transcript Page 171]

3. Because of an incident in *** 2017, an MDR was conducted in conjunction with an admission, review and dismissal (“ARD”) committee meeting for the student on ***, 2017. [Petitioner’s Exhibit 1; Respondent’s Exhibit 1; Transcript Pages 202-203]

4. The MDR addressed disciplinary consequences for the student for ***. [Respondent’s Exhibits 1 & 18; Transcript Pages 202-203]

5. When the student was ***, the student’s assistant principal asked the student for a written statement. The student chose to make the statement ***. The student admitted to ***. The student stated the intention was to ***. The student stated that ***. [Respondent’s Exhibit 6; Transcript Pages 203-204]

6. The district administration recommended that the student be expelled for *** pending an MDR to address the student’s conduct in conjunction with the student’s disability. The student’s parent appealed the disciplinary assignment in a separate proceeding and a hearing

Petitioner further failed to prove that the MDR determination was in error. The student's disability did not have a direct and substantial relationship with the conduct involved nor directly cause the conduct.

Conclusions of Law

1. The student is eligible for a free appropriate special education program under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations, and is to be provided by the Conroe Independent School District.

2. The district's processes in making decisions about educational placement for the student accorded with the requirements articulated in Board of Education of the Hendrick Hudson School District v. Rowley, 458 U.S. 176 (1982), 34 C.F.R. §300.552, and 19 T.A.C. §89.1055; Andrew F. v. Douglas County School District, 137 S.Ct. 988 (2017); and Cypress-Fairbanks ISD v. Michael F., 118 F.3d 245 (5th Cir. 1997), 34 C.F.R. §300.300, and 19 T.A.C. §89.1055, and the district's determinations were appropriate under 34 C.F.R. §300.530 and Tex. Educ. Code §37.004.

3. The district did not predetermine the student's disciplinary placement before a proper MDR nor prevent the student's parent to participate in the decision-making process. Deal v. Hamilton County Board of Education, 392 F.3d 840 (6th Cir. 2003), and Rockwall Independent School District v. M.C., 2014 WL 112642573 (N.D. Tex. 2014).

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief sought by Petitioner is DENIED and Petitioner's claims are DISMISSED with prejudice.

SIGNED this 15th day of November, 2017.

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SYNOPSIS

ISSUE: Whether the district's processes in making decisions about educational placement for the student accorded with the requirements of law.

CFR CITATIONS: 34 C.F.R. §300.552 and 34 C.F.R. §300.300

TEXAS CITATION: 19 T.A.C. §89.1055

HELD: For Respondent.