

DOCKET NO. 397-SE-0819

STUDENT b/n/f PARENT § **BEFORE A SPECIAL EDUCATION**
Petitioner **SCHOOL DISTRICT** § **STATE OF TEXAS**
Respondent §

DECISION OF THE HEARING OFFICER

Statement of the Case

Petitioner, *** (“ the student”), by next friend, ***, (“the parent”) filed a complaint requesting an impartial due process hearing pursuant to the Individuals with Disabilities Education Improvement Act

1. Whether the manifestation determination made by the district for an alleged *** occurring off

4. Because of an alleged *** by the student on ***, 2019, when school was not in session, a Manifestation Determination Review (“MDR”) was conducted for the student on August ***, 2019. (P. 22, 25; R. 13, 31).
5. The district administration received notice of ***. (R. 8; Tr. 239-240). The district notified the parent via email on August ***, 2019, of the notification from *** and suggested times for the administrative disciplinary hearing, an Admission Review and Dismissal (“ARD”) meeting, and an MDR meeting. The parent agreed to meet on August ***, 2019. The administrative disciplinary hearing was held on August ***, 2019 at 9:30 a.m. (R.16; Tr. 240). The student was given an opportunity to present a statement at the disciplinary hearing. The student’s mother *** attended the disciplinary hearing. The student did not attend the hearing. (Tr. 240).
6. A Revision to the Annual ARD meeting was held at 10:00 a.m. on August ***, 2019, immediately followed by the MDR meeting beginning at 1:11 p.m. (R. 15; R. 14). The same individuals attended the Revision ARD committee meeting and the MDR meeting with the exception of the *** principal who did not attend the Revision ARD committee meeting. (P. 27; R. 14).
7. The student’s general education teacher was present at the ARD committee meeting from 10:04 a.m. until 11:31 a.m. when she was excused to attend an appointment with her doctor. The parent agreed to excuse the general education teacher from the meeting. (R. 15; Tr. 377-378).
8. The MDR addressed whether *** was caused by, or had a direct and substantial relationship to, the student’s eligibility for Special Education for a SLD in *** or OHI for ADHD (R. 31; P. 22) or whether the conduct was the direct result of the district’s failure to implement the student’s IEP. The MDR also addressed disciplinary consequences for the student under the district’s policy (FOC) Legal, Student Discipline, ***. (P. 27; R. 14; Tr. 107).
9. The MDR committee reviewed the student’s Full Individual Evaluation (“FIE”), BIP, teacher input, and information about the student’s disabilities, and the committee considered the input of the student’s mother ***. (P. 22; R. 31; Tr. 101-106).
10. The student’s parent *** were in attendance at the MDR meeting. The student’s ***, acting as the spokesperson ***, told the MDR that the student had an alibi, and that the family believed that if the student did commit the conduct, student’s impulsive behavior was the cause of Student’s conduct. *** discussed that the district’s Licensed Specialist in School Psychology (“LSSP”), the student’s DAEP teacher, and the Independent Education Evaluation (“IEE”) by *** all confirmed the student’s impulsivity. (P. 22, 25; R. 14, 31; Tr. 290-295).
11. *** did not present the MDR with, or present testimony of, any specific circumstances indicating a

13.

In conducting the MDR, an MDR committee is required to review all relevant information in the student's educational file, including the IEP, teacher observations, and any relevant information provided by parents. 34 CFR § 300.530(e)(1).

The evidence in this case shows that the MDR committee complied with these requirements. It reviewed the student's Full Individual Evaluation ("FIE"), teacher input, information about the student's disabilities, and considered the input of the student's mother

2. Petitioner failed to meet Student's burden to prove that the MDR conducted by the district regarding the student's alleged *** was improper.
3. Petitioner failed to meet Student's burden to prove that the district's MDR determination was erroneous.
4. Petitioner failed to meet Student's burden of proof to establish a violation of IDEA or a denial of FAPE. *Schaffer v. Weast*, 546 U.S. 49 (2005).

ORDER

Based upon the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that all relief sought by Petitioner, including the appeal of the manifestation determination and disciplinary placement, is **DENIED** and that all Petitioner's claims are **DISMISSED** with Prejudice.