

BEFORE THE DUE PROCESS HEARING OFFICER

**IN THE MATTER OF THE SPECIAL EDUCATION)
EXPEDITED DUE PROCESS HEARING FOR STUDENT)**

and)

USD 246-NORTHEAST)

Pursuant to K.S.A. 72-2252 et seq.

FINAL ORDER

The above captioned matter for Expedited Due Process was set for Hearing at 1:00 PM Friday, December 9, 2022 to be heard virtually at 1:00 PM. Both the District and the Parent were notified of the hearing.

ISSUE

Did USD 246 provide notice to Parent and properly conduct the manifestation determination Review (MDR)?

FINDINGS OF FACT

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1. The District scheduled and MDR for the student on November 7, 2020 to occur the following day. District personnel provided 24-hour notice of the MDR to the Parent.
2. The MDR was held as scheduled without the Parent's presence despite notice having been given. In her absence, the District Team considered all topics required by statute, following the MDR form as provided by the Kansas Department of Education. For the parental input section, the District Team discussed information previously provided by the Parent related to the student's behavioral diagnosis.
3. Following the MDR, the District Team found that the student's behavior was not a manifestation of his disability.
4. Subsequent to the MDR finding, the District and Parent agreed to amend the student's IEP changing the student's placement so he would receive services at The Learning Center (THC). The student has attended school at the TLC since November 15, 2022.

CONCLUSIONS OF LAW

1. K.A.R. 91-40-38(d) states “An agency shall convene meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours prior notice of a meeting to the child’s parents.”
2. K.S.A. 72-3433(e)(1) requires those meeting for MDR to discuss topics “including the child’s IEP, any teacher observations, and any relevant information provided by the parent.”

ORDER

After considering the evidence and applying the applicable law and regulations, the Expedited Due Process Hearing Officer finds that the District made the appropriate determination as required for the manifestation determination review, and the Team’s determination that the behavior was not a manifestation of his disability was proper. Further, the District took the appropriate steps and actions required by K.S.A. 72-3433(e)(1) and K.A.R. 91-49-38(d) to make their determination. While the parent was not present for either the MDR or the Expedited Due Process Hearing, the District provided sufficient evidence to establish that the actions taken by the District was proper under the law and that FAPE was provided.

IT IS SO FOUND AND ORDERED.

Date: December 19, 2022

s/ James G. Beasley
James G. Beasley, Hearing Officer

Certificate of Service

I certify that a copy of the above order was served by electronic mail to the parent, Parent and Counsel, Attorney for the District this 19th day of December, 2022.

s/ James G. Beasley
James G. Beasley, Hearing Officer