

STATE OF NEVADA DEPARTMENT OF EDUCATION

DUE PROCESS REVIEW

IN THE MATTER OF:

STUDENT, by and through, PARENT,¹

Appellant,

Lyn Beekman, State Review Officer

v

Representatives:

SCHOOL DISTRICT,

Parent, appearing *pro se*, for Appellant
Daniel Ebihara, Esq., for Appellee

Appellee.

STATE REVIEW OFFICER'S DECISION

PROCEDURAL BACKGROUND²

Student is in the 2nd grade at Elementary School in the School District.³ On March 20, 2023, the Parent wrote to the School District expressing concerns about certain of the Student's behaviors and academic progress. The Parent requested a comprehensive special education evaluation for Student in all areas of suspected disability.⁴ On April 14, 2023, the Multidisciplinary Team (MDT) issued the Parent a Parental Prior Notice of District Refusal to evaluate Student.⁵

¹ Personally identifiable information is attached as Appendix A to this decision.

² The record includes a transcript of the hearing held on August 22 and 28, 2023, references to which will be "Tr., at p. _." In addition, the record contains three types of exhibits from the hearing below. First, those exhibits of the Hearing Officer which will be referred to by as "HO_." Second, those exhibits of the Parent which will be referred to as "P_." Third, those exhibits of the School District which will be referred to as "D_." And fourth, the exhibits of this State Review Officer (SRO), set forth in the State Review Officer Exhibit List, which are hereby admitted and shall be referred to as "SRO_." Given the Notice of Petitioner's appeal (SRO1 at _) contains 22 pages, citations to it will include the page number.

³ R3

⁴ R4

⁵ P31

The Parent filed a Request for Due Process (RDP) on June 29, 2023, under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et. seq., and its implementing regulations, 34 C.F.R. §300 et seq., Chapter 388 of the Nevada Revised Statutes (NRS), and Chapter 388 of the Nevada Administrative Code (NAC).⁶ On July 12, 2023, the Nevada Department of Education (NDE) appointed Victoria T. Oldenburg to hear this matter.⁷ The hearing was held on August 22 and 28, 2023. The parties made closing arguments on the record.⁸ On September 1, 2023, the hearing officer rendered her decision.⁹

The Parent filed a Notice of Petitioner’s Appeal on September 5, 2023, pursuant to the provisions of NAC 388.315.¹⁰ On September 11, 2023, the NDE appointed the undersigned as the State Review Officer (SRO) to hear this appeal.¹¹ Through an exchange of emails with the parties this SRO addressed whether: a) either party had any objections to my serving as the SRO¹²; b) contended additional evidence was necessary as part of this review within the meaning of 34 C.F.R. §300.514(b)(2)(iii) (neither party responded they did); c) wanted to file any additional written argument or brief (neither party responded they did); and d) had any other questions or requests regarding the review process (neither party responded they did).¹³ The

⁶ HO -1

⁷ HO -1

⁸ Tr., pp. 356-371

⁹ SRO1

¹⁰ SRO2

¹¹ SRO3

¹² Parent objected to my serving as SRO in this matter based on my not being a member of the Nevada State Bar but acknowledged that I was a member of the State Bar of Michigan (SRO7.) This SRO then requested of NDE the qualifications for a SRO (SRO8) and NDE responded by providing a copy of “State of Nevada Special Education Administrative Hearings Hearing Officer Qualifications and Statement of Interest,” noting SROs “are required to meet the qualifications for Impartial Hearing Officers and have extensive experience in the special education process and possess a law degree.” The document states regarding mandatory qualifications: “Be an attorney in good standing in the Nevada State Bar or be a current member in good standing of another State.” (SRO10.) I advised the parties I was qualified to serve as the SRO in this matter. (SRO11.) Parent continued to object challenging the document the NDE provided in that it failed to reference any provision of the NAC and failed to state the date it was effective. He also asserted this SRO could not practice law in the State of Nevada without a license. (SRO12.) Each of the objections of Parent is found to be without merit.

¹³ SRO11, 12, 13, 14

deadline for the decision on appeal to be rendered was confirmed as being on or before October 11, 2023.

STANDARD OF REVIEW

With respect to the standard of review, the state review officer is required to make an independent decision, reviewing the entire record of the hearing below. (20 U.S.C. § 1415 (g); NAC 388.315 (f).) This SRO has done so here, having reviewed the decision of the hearing officer, the two volumes of the transcript, and all exhibits.

Though not expressly adopted by the Ninth Circuit, this review officer finds persuasive the standard of review language articulated in *Carlisle Area Sch. Dist. v. Scott P.*, 62 F.3d 520, 23 IDELR 293 (3d Cir. 1995), cert. denied, 517 U.S. 1135, 109 LRP 34841 (1996). The Court there noted that in two-tier systems under the IDEA, the review officer must exercise “plenary review” to make the independent decision the IDEA requires. However, in doing so, it held a review officer should defer to the hearing officer’s credibility determinations, unless the non-testimonial, extrinsic evidence in the record will justify a contrary conclusion or unless the record read in its entirety would compel a contrary conclusion. Accordingly, this is the standard of review that this SRO uses in rendering this decision.¹⁴

PROCEDURE

Pursuant to NAC 388.315(b), the review officer must ensure that the procedures of the hearing officer were consistent with the requirements of due process. Parent in his Notice of Petitioner’s Appeal challenged numerous procedural rulings of the hearing officer. (SRO2.) The School District did not challenge any of the hearing officer’s procedures.

¹⁴ See also *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 103 LRP 33278 (9th Cir. 2001) (impliedly approving the Third Circuit’s approach in *Carlisle*).

The hearing officer in her decision detailed in chronological order the extensive pre-hearing proceedings she conducted during which she heard and addressed each of the many objections raised by Parent in his Notice of Petitioner’s Appeal.¹⁵

While IDEA sets forth the specific rights accorded to any party in a due process hearing,¹⁶ a hearing officer is charged with the specific responsibility “to accord each party a meaningful opportunity to exercise these rights during the course of the hearing.” It is further expected that the hearing officer “ensure that the due process hearing serves as an effective mechanism for resolving disputes between parents” and the school district. In this regard, apart from the hearing rights set forth in IDEA, “decisions regarding the conduct of due process hearings are left to the discretion of the hearing officer.”¹⁷

An IDEA hearing officer must possess the knowledge of, and ability to, among other things, conduct hearings and write decisions “in accordance with appropriate, standard legal practice.”¹⁸ Thus, the discretion exercised by a hearing officer in conducting the hearing process must be “in accordance with appropriate, standard legal practice.” Although neither IDEA nor Nevada law define the term “appropriate, standard legal practice,” training on this specific subject, among others, is mandated and provided to every hearing officer by the NDE to meet IDEA’s qualification requirements.¹⁹

¹⁵ SRO1 at pp. 2- 18; HO16, 18, 24, 28, 30, 31, 32.

¹⁶ See, e.g., 34 C.F.R. §300.512.

¹⁷ *Letter to Anonymous*, 23 IDELR 1073 (OSEP 1995). See also *Analysis and Comments to the Regulations*, Federal Register, Vol. 71, No. 156, pages 46704-46706 (stating, in pertinent part, “the specific application of those procedures [regarding pre-hearing and decisions] to particular cases generally should be left to the discretion of hearing officers who have knowledge and ability to conduct hearings in accordance with standard legal practice. There is nothing in the Act or these regulations that would prohibit a hearing officer from making determinations on procedural matters not addressed in the Act so long as such determinations are made in a manner that is consistent with a parent’s or a public agency’s right to a timely due process hearing.”)

¹⁸ 34 C.F.R. §300.511(c)(1)(iii and iv); NAC 310(15)(d) and (e).

¹⁹ NRS §388.465(1)(b)(1) and (2).

While a hearing officer's discretion is broad, it is not without limits. The generally applicable standard of review is abuse of discretion.²⁰ An abuse of discretion is more often thought to be where the adjudicator made an error in judgment in acting. But, it can also arise from "a failure or refusal, either express or implicit, actually to exercise discretion."²¹ An abuse of discretion also occurs when a decision-maker "provides no rational explanation, inexplicably departs from established policies, is devoid of any reasoning, or contains only summary or conclusory statements; that is to say, where the [decision-maker] has acted in an arbitrary or capricious manner."²²

After reviewing the entire record in this matter this SRO finds the hearing officer did not abuse her discretion. She provided a rational explanation for each of her rulings on Parent's requests and objections and did not err for each ruling was consistent with "appropriate, standard legal practice," which includes being consistent with due process, IDEA or Nevada law.²³

ISSUE

The issues presented in this review are:

1. Whether the hearing officer erred in finding Parent was not required to participate in the School District's multi-disciplinary team (MDT) meeting which was convened to review Student's educational record and any other data provided to the team to determine whether the School District suspected Student had a disability and was in need of special education and related services when an initial evaluation had not

²⁰ See, e.g., *O'Toole v. Olathe Unified Sch. Dist. No.233*, 144 F.3d 692,709 (10th Cir. 1998); *D.Z. v. Bethlehem Area Sch. Dist.*, 2 A.3d 712 (Pa. Commw. Ct. 2010).

²¹ *Sharpe v. Director, OWCP*, 495 F.3d 125 (4th Cir. 2007).

²² *Khan v. Gonzales*, 495 F.3d 31 (6th Cir. 2007).

²³ With respect to the hearing officer's ruling that Parent was entitled to receive either an audio or written transcript, but not both, she noted she had researched the issue but did not cite any authority. (SRO1 at 16.) See *Letter to Maldonado*, 49 IDELR 257 (OSEP 2007) supporting her ruling.

yet been performed?

2. Whether the hearing officer erred in finding the School District complied with the IDEA (including its implementing regulations), Chapter 388 of the Nevada Revised Statutes (NRS), and Chapter 388 of the Nevada Administrative Code (NAC) when it refused to conduct an initial evaluation of Student for IDEA eligibility in all areas of suspected disability pursuant to Parent's March 20, 2023, Request for an Evaluation?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

To make the "independent decision" as required under IDEA and the NAC, this SRO has reviewed the entire record in this matter even though only portions of the record are noted in this decision, as well as in the decision of the HO. After considering all the evidence in the record, the closing arguments at the hearing and the statements of Parent in his Notice of Petitioner's Appeal, the Findings of Fact and Conclusions of Law of the HO below are adopted as this SRO's own "independent decision."

The decision of the hearing officer is well stated, with Findings of Fact being clearly supported by a preponderance of the evidence on the record, and the Conclusions of Law being legally well based and correct. Further, this SRO gives deference to the credibility judgments of the hearing officer. Not only is there no non-testimonial, intrinsic evidence in the record that would justify a contrary conclusion, but the record read in its entirety does not compel a contrary conclusion. For these reasons the decision is affirmed. However, this SRO shall supplement those Findings of Fact and Conclusions of Law by responding to one argument raised by Parent in his Notice of Petitioner's Appeal and providing more specific citations to the transcript as follows:

1. Parent asserts in his Notice of Appeal that the School District erred “by denying Petitioners (sic) of his right to obtain an initial evaluation through his guaranteed right to receive a ‘Child Find’ evaluation, pursuant to NAC 388.215 and under 20 U.S.C. §1412(a)(3); 34 C.F.R. §300.111.”²⁴ It appears Parent refuses to accept that the right to an initial evaluation under IDEA and the NAC is not absolute, or in other words, a parent cannot just request an initial evaluation and automatically get it. Rather, as the hearing officer noted in her decision:

“Child Find captures the duty of a school district to assess whether a child is eligible for special education *once the district is on notice that the child has displayed symptoms of that disability.*” (Emphasis added.)

Timothy O. V. Paso Robles Sch. Dist., 822 F 3d 1005, 1119-20 (9th Cir. 2016).²⁵

This prerequisite of the child displaying symptoms of a disability is further reenforced in Nevada law at NAC 388.337 which reads in pertinent part:

“Deadlines for conducting initial evaluations; request for extensions; exception.

1. Except as otherwise provided by subsections 2 and 3 [both of which address the deadline] *when a public agency determines that good cause exists to evaluate a pupil* pursuant to NAC 388.330 to 388.440, inclusive, it shall conduct the initial evaluation within: [various provisions addressing the deadlines for conducting the evaluation].” (Emphasis added.)

Thus, while a parent has the right to obtain an initial evaluation of a child under both IDEA and Nevada law, it is clearly conditioned on the child displaying some symptom of a disability.²⁶

²⁴ SRO2 at p.2.

²⁵ SRO1 at p. 26.

²⁶ See also in this regard 34 C.F.R. §300.304(c)(4) requiring the child to be “assessed in all areas related to the suspected disability.”

2. It appears at the time the hearing officer wrote her decision she did not have a written transcript for when citing to the testimony in her Findings of Fact she refers generally to the testimony of a particular witness. In reviewing the transcript where the hearing officer generally cited a witness's testimony in support a fact finding this SRO noted the specific pages which support each finding.²⁷

DECISION AND ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is the independent decision of this SRO that the hearing officer's decision is AFFIRMED.

It is so ordered.

Dated: October 7, 2023

A handwritten signature in blue ink, reading "Lyn Beekman", is written over a horizontal line.

Lyn Beekman, State Review Officer

NOTICE OF APPEAL RIGHTS

This decision of the State Review Officer is final unless a party appeals the decision. A party may appeal from the decision of the State Review Officer by initiating a civil action in a court of competent jurisdiction within 90 days after receipt of this decision. NAC §388.315.

²⁷ The Findings of Fact section of the hearing officer's decision citing what this SRO finds are the relevant page(s) of the transcript supporting each finding is attached as Appendix B to this decision.

APPENDIX B

Note: The citations to specific pages of the transcript added to the Findings of Fact of the hearing officer below by this State Review Officer are in italics.

FINDINGS OF FACT

After considering all the evidence, this IHO's Findings of Facts are as follows:

1. The Student is in 2nd grade at Elementary School. (R-3) At the time the RDP was filed the Student was a 1st grade pupil at Elementary School. (R-3)
2. On March 20, 2023 the Parent wrote to the District expressing concerns about the Student's learning and inattention to his home and school work; that the Student's behavior made it difficult for the Student to focus on one task and the Student is pulled in different directions and not independently able to complete the task at hand; that the Parent was informed that the Student's behaviors have led to problems with the Student finishing school work, and the Student is missing key information in class because the Student is distracted by seemingly unimportant details or sounds in the room and; as of March 8, 2023 the Student's teacher expressed concerns with the Student's language/arts skills and stated the Student is not progressing and has a 65.17 (D) in language/arts. The Parent requested a comprehensive special education evaluation for the Student in all areas of suspected disability. (R-4)
3. On March 23, 2023 the District sent the Parent an email asking if the Parent was available to meet on March 31, 2023. (R-15, page 1) The Parent responded stating that the District's demand that the Parent participate in a "Pre" Multidisciplinary Meeting (MTD) is a violation of federal law, the IDEA, and State law. The Parent reiterated the request for an evaluation in all areas of suspected disability and included a request for a psycho-

educational evaluation in 7 developmental domains. The Parent stated that they were under no obligation to attend the MDT meeting and requested that the District send prior notices, meeting arrangements and a form to initiate the evaluation process. (R-15, page 3)

4. On March 27, 2023 the District's Coordinator of Psychological Services sent an email to the Parent stating that in order to address the Parent's request for an evaluation the District's procedures were to convene the MDT team to meet, review data, and determine the best next steps for the Student. Attached to the email were the Special Education Rights of the Parents and Children, and the Parental Prior Notice of District Proposal, and a Parental Prior Notice-Proposed Meeting Arrangements form. (R-15, page 5). The Notice was generated in response to the Parent's March 20, 2023 request for evaluation and informed the Parent of the proposed action which was to meet to address the Parent's request. The Parental Prior Notice-Proposed Meeting Arrangements form provided for a tentative meeting date of March 31, 2023. (R-14, P-5)
5. From a procedural perspective, the District sends out the CCF-563 and CCF-564 District forms when a parent requests an evaluation; parental consent is not required to have a meeting to discuss the parent's request for an evaluation and to review existing student data. The CCF-555 form is only used when the District makes a determination to evaluate the Student for a suspected disability; in that case parental consent is required. (R-14) (Testimony of School Psychologist *at Tr.*, pp. 300-309.)
6. On March 27, 2023 the Parent replied to the District again stating disagreement with holding an MDT meeting, that the Parent was not legally obligated to agree with the MDT meeting, that it was unnecessary and unlawful to hold a meeting prior to administering

assessments of the Student and requesting the law the District's relied on in deciding to hold a MDT meeting prior to the completion of an MTD report. (R-15, pages 16-17)

7. A second Parental Prior Notice of District Proposal was sent to the Parent on March 30, 2023 with the same the Parental Prior Notice-Proposed Meeting Arrangements form. (R-14, P-5)
8. On April 4, 2023 the District's Psychological Services Provider sent an email to the Parent to reschedule the MDT meeting to April 14, 2023. The Psychological Services Provider addressed the Parent's request that the District provide the law it relied on in deciding to hold a MDT meeting. The District referred to the District's procedures for when a parent requests an evaluation, specifically procedure 5.2.3 which provides that when a parent requests an initial evaluation the MDT must decide whether an evaluation is warranted and if not a refusal (to evaluate) must be completed and provided to the parents. If the MDT decides an evaluation is warranted then the team proceeds with the procedures for an initial evaluation including sending a written prior notice.
(R-15, pages 60-61, R-18)
9. On April 4, 2023 the District sent the Parent a third the Parental Prior Notice of District Proposal and the Parental Prior Notice-Proposed Meeting Arrangements which provided for a meeting date of April 14, 2023. (R-14, P-5)
10. On April 5, 2023 the Parent sent the District an email stating that the Parent would not be attending the MDT meeting set for April 14, 2023 and continued to disagree with the District's procedures regarding a MDT meeting to determine whether an evaluation was warranted. (R15, pages 52-58)

11. On April 6, 2023 the Principal sent an email to the Parent stating they were sorry the Parent would not be joining them at the April 14, 2023 meeting, hoping that the Parent would reconsider. (R-15, page 51)
12. On April 7, 2023 the Parent sent an email to the District again stating disagreement with the MDT meeting on multiple grounds. (R-15 pages 63-64)
13. On April 13, 2023 a fourth the Parental Prior Notice of District Proposal and the Parental Prior Notice-Proposed Meeting Arrangements form was sent to the Parent which provided for a tentative meeting date of April 14, 2023. (R-14)
14. On April 14, 2023 the MDT issued the Parent a Parental Prior Notice of District Refusal to evaluate the Student stating that the refusal was based upon a review of the 13 eligibility categories in the NAC relative to all available Student data and that each person on the MDT agreed that based on the data there was no suspected disability and no need for individualized services. The Parent was also provided with the Procedural Safeguards. (P-31)
15. The District never demanded that the Parent attend the MDT meeting nor was the Parent required to attend. (Testimony of Coordinator of Psychological Services *at Tr., pp. 51, 104.*)
16. In Kindergarten the Student was administered the Brigance assessment and scored 93.5 out of 100. (P-34) There was no reason to suspect the Student had a disability. (Testimony of Kindergarten Teacher *at Tr., pp. 276-278, 281.*)
17. The Student's Report Card for the first semester of the 2022-2023 school year showed that the Student received a D in language, an A in math, a B in reading, an A in social studies, an A in speaking and listening, a C in writing, an A in science, and an A in health. In Special Subjects the Student had satisfactory progress in art, humanities, library and PE, and exceptional progress in music. In Successful Learning Behaviors the Student had satisfactory progress in observing

school rules, following classroom rules, following directions, accepting responsibility, working independently, working cooperatively, and quality of work; the Student had exceptional progress in completing and returning homework in on time. (R-12).

18. The Student's Report Card for the second semester of the 2022-2023 school year showed that the Student received a C in language, a B in math, a B in reading, an A in social studies, an A in speaking and listening, a C in writing, and A in science, and an A in health. In Special Subjects the Student had satisfactory progress in art, humanities, and PE, and exceptional progress in library and music. In Successful Learning Behaviors the Student had satisfactory progress in observing school rules, following classroom rules, following directions, accepting responsibility, working independently, working cooperatively, and quality of work; the Student had exceptional progress in completing and returning homework in on time. (R-12)

19. On March 8, 2023 the Student received a Report of Student Unsatisfactory Progress stating the Student was not progressing academically in language, with a 65.17% (D) current grade, and had one late/missing assignment. The Report indicated the Student could improve the current grade by submitting late assignments and practice writing in a journal at home using correct punctuation. (R-13) The grade improved to a C because the Student started taking more time, working harder, studying more, and writing more carefully - sentences were more complete with periods at the end and a better use of adjectives. (Testimony of 1st Grade Teacher *at Tr.*, pp. 169-171.)

20. At the April 23, 2023 MDT meeting the team reviewed the Student's educational data and work samples which included the Student's spring 2023 Measure of Academic Progress (MAP) assessment showing high average growth in math and reading (R-7), and the Student's *1st grade Addition Assessments Facts to 10* done in September and November, 2022, and January, March

and May, 2023 (R-8), and the Student's *Math Numbers Operations and Algebra 1_1* for December 10, 2022 and April 12, 2023 (R-9), which all showed that the Student was on track for math and was making growth and above average in algebra. (Testimony of Coordinator of Psychological Services *at Tr.*, p. 58; 1st Grade Teacher *at Tr.*, pp. 166-168.) The MDT also reviewed the *easyCBM* reading report for the 2022-2023 school year which assesses reading fluency and showed the Student received above-average scores (R-10) and the *Words Their Way* spelling inventory from August, 2022 and April, 2023 (R11) which showed the Student was above average from other students in his class. (Testimony of School Principal *at Tr.*, pp. 127, 132-134; 1st Grade Teacher *at Tr.*, pp. 166-168.) The Student's passage reading fluency for 1st grade indicated the Student was progressing (R-10). (Testimony of Coordinator of Psychological Services *at Tr.*, p.58.) The MDT also received input on observations of the Student by the Teacher and the Special Education Instructional Facilitator. (Testimony of Coordinator of Psychological Services *at Tr.*, p. 55; Special Education Instructional Facilitator *at Tr.*, p. 209.)

21. The Student Literacy Performance Plan for the 2022-2023 school year shows the Student was not at risk, indicated the Student's strengths, and did not indicate any weaknesses or make any recommendations for the Student. (P-37, Testimony of *Read by Grade 3* Strategist *at Tr.*, pp. 321-323.)

22. The Student has average focus, can pay attention and answer questions on topic, and demonstrated good behavior in class. While it was observed the Student could be chatty and social at times, any inability to maintain focus and stay on task was typical for students that age and if needed the Student was easily redirected, which minimal redirection was being given to all students in the classroom. Any inattentiveness or work completion issues were typical for what is seen in first graders. The Student is happy, social and has good relationships in the classroom

and does not have signs of anxiety or depression. (Testimony of Coordinator of Psychological Services *at Tr.*, p. 74; 1st Grade Teacher *at Tr.*, pp. 171-173, 182; Special Education Instructional Facilitator *at Tr.*, pp. 210, 229, 237-238.) The Student had normal behavior for the Student's age and the Student's behavior did not impede any of his learning based upon the Student's existing educational assessments. (Testimony of School Principal *at Tr.*, pp. 126, 136.)

23. Using the educational and observational data provided at the meeting the MDT went through the eligibility criteria in the NAC including NAC 388.390 (hearing impairment); NAC 388.395 (visual impairment); NAC 388.400 (orthopedic impairment); NAC 388.402 (health impairment other than orthopedic impairment); NAC 388.405 (speech and language impairment); NAC 388.410 (intellectual disability); NAC 388.415 (emotional disturbance); NAC 388.420 (specific learning disorders); NAC 388.425 (multiple impairments) and; NAC 388.427 (deafblindness), in addition to any exclusionary criteria. Based upon the existing data the MDT had no reason to suspect the Student had a disability. (Testimony of Coordinator of Psychological Services *at Tr.*, pp. 55-62, 67-78; School Principal *at Tr.*, pp. 129, 135-137; Special Education Instructional Facilitator *at Tr.*, pp. 209-210.) The existing data did not support a need for interventions as the Student was responding well to Tier 1 instruction and was average to above average.¹ (Testimony of Coordinator of Psychological Services *at Tr.*, pp. 58-62; Special Education Instructional Facilitator *at Tr.*, pp. 213-215, 229.) The Parent did not provide the MDT with any factual information supporting the existence of a disability under the IDEA or Nevada law. (Testimony of Coordinator of Psychological Services *at Tr.*, pp. 66-67, 69-71, 77.)

¹ Tier 1 is the curriculum, instruction and assessments given to all students in a grade level. (Testimony of Coordinator of Psychological Services *at Tr.*, p.76.) The Pre-MDT consisted of the School Principal, the Special Education Instructional Facilitator, the 1st Grade Teacher, and the Coordinator of Psychological Services. The Parent did not attend the meeting.