

**BEFORE THE MISSISSIPPI DEPARTMENT OF EDUCATION**  
**SPECIAL EDUCATION CASE NO. D10262023-10**

**HEARING DECISION AND FINAL ORDER**

**I. PROCEDURAL HISTORY**

This matter was filed by Complainant (Petitioner), [REDACTED], on behalf of [REDACTED], Student, against Monroe County School District (Respondent) effective October 30, 2023 and was assigned to this Hearing Officer by the Mississippi Department of Education. The 30-day resolution period began on October 31, 2023 and ended on November 29, 2023. Mediation was convened in lieu of a resolution meeting. The 45-day timeline to conduct a due process hearing and issue a written opinion began on November 30, 2023 and ends on January 13, 2024. A closed hearing was convened via the Zoom platform on December 20, 2023.

**II. EXHIBITS ADMITTED INTO EVIDENCE**

Exhibits were submitted by Respondent and accepted by this Hearing Officer. These exhibits have been examined by this Hearing Officer subject to the issues heard at the due process hearing and in light of the testimony presented at said hearing. This Hearing Officer has examined the exhibits based upon the substantive nature contained therein for the purpose of making a decision in this matter.

**III. BURDEN OF PROOF**

The burden of proof in this matter is upon Petitioner as the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005).

**IV. SUMMARY OF THE TESTIMONY**

This decision is based on all testimony presented at the hearing as well as exhibits admitted into evidence during the hearing. Both parties were permitted to offer testimony by way of

witnesses sworn under oath. The testimony has been recorded and the transcript will be delivered to the Mississippi Department of Education. This Hearing Officer placed no weight on the fact that any particular testimony was offered by either party since the purpose was to provide all of the appropriate and admissible testimony. The witnesses were examined and the weight given to each was based upon the substantive nature contained therein for the purpose of making a decision in this matter.

**Testimony:**

A. [REDACTED]: (“Mother”). On March 20, 2023, Student was involved in sexual misconduct on school grounds. Student was suspended from school pending a disciplinary hearing. A manifestation determination review was convened, and the IEP Committee determined that Student’s conduct was not a manifestation of Student’s disability. A disciplinary meeting was held, and Student was placed in the District’s Alternative School for 150 days. Mother believes that the punishment is excessive because Student has an IEP. Mother does not believe that Student has received appropriate services pursuant to Student’s IEP in the Alternative School.

B. [REDACTED]: Monroe County Special Education Director (“Director”). Student currently receives special education and related services at the District’s Alternative School. Student’s eligibility category is Specific Learning Disability in the areas of mathematics problem solving and mathematics calculation. Student received 25 minutes of inclusion services two times per week at the zoned regular school pursuant to Student’s IEP. Student now receives 150 minutes of inclusion services per day at the Alternative School, exceeding the requirements of Student’s IEP. Student also receives virtual services in the general education setting from Student’s zoned regular school. Student is currently passing all classes.

## **V. ISSUE PRESENTED**

The sole issue presented at the due process hearing is Student's special education placement pursuant to 34 C.F.R. § 300.530(c); *Miss. Admin. Code* 7-3:74.19, State Board Policy Chapter 74, Rule 74.19, § 300.530(c). The Request for Due Process Hearing asserts that Student has not received a Free Appropriate Public Education (FAPE) in the Alternative School special education placement. All other issues presented in the request for the due process hearing were dismissed without prejudice by this Hearing Officer at the hearing, as those issues are outside the jurisdiction of this forum.

## **VI. DISCUSSION OF THE ISSUE**

Student engaged in sexual misconduct at Student's zoned regular school. Student has an IEP with an eligibility category of Specific Learning Disability in the areas of mathematics problem solving and mathematics calculation. A Manifestation Determination Review (MDR) was conducted, and the IEP Committee determined that the violation was not a manifestation of Student's disability. Student was placed in the District's Alternative School for 150 days.

Mother does not dispute that the sexual misconduct occurred or that the incident is not a manifestation of Student's disability. The Request for Due Process Hearing asserts that the punishment is excessive. This issue is a general disciplinary issue and is therefore outside the scope of this Hearing Officer's jurisdiction. The Request for Due Process Hearing further asserts that Student's IEP was not implemented at the Alternative School and that Student does not receive inclusion services at the Alternative School. Director's testimony and the Exhibits submitted demonstrate otherwise. Director testified that Student receives inclusion services that exceed the requirement of the IEP at the Alternative School. Furthermore, the Exhibits demonstrate that Student has grades of As, Bs, and one C.

The *Individuals with Disabilities Education Improvement Act of 2004* “requires an educational program reasonably calculated to enable a child to make progress in light of a child’s circumstances”. *Andrew F., etc. v. Douglas County School Dist. RE-1*, 137 S.Ct. 988, 1000 (2017).

Furthermore,

. . . “Regular examinations are administered, grades are awarded, and yearly advancement to higher grade levels is permitted for those children who attain an adequate knowledge of the course material.” Progress through this system is what our society generally means by an “education.” And access to an “education” is what the IDEA promises. *Ibid.*

*Id.* at 999, citing and quoting *Board of Educ., etc. v. Rowley*, 458 U.S. 176 (1982). None of the testimony at the hearing demonstrated that Student’s ability to progress from grade to grade was impacted. The exhibits show that Student did progress from grade to grade during the applicable statute of limitations. Therefore, this Hearing Officer finds that Student was not denied a Free Appropriate Public Education (FAPE) pursuant to the *Individuals with Disabilities Education Improvement Act of 2004*.

This Hearing Officer finds by a preponderance of the evidence that no violation of the *Individuals with Disabilities Education Improvement Act of 2004* has occurred.


## **VII. SPECIFIC RULINGS AND CONCLUSIONS**

- A. This Hearing Officer finds that, based upon the preponderance of the evidence, the School District did not violate the *Individuals with Disabilities Education Improvement Act of 2004*.
- B. This Hearing Officer finds that, based upon the preponderance of the evidence, no relief is warranted.

## **VIII. FINAL ORDER AND NOTICE OF APPEAL RIGHTS**

This Hearing Decision constitutes a Final Order in this case. Any party dissatisfied with the decision may bring an appeal pursuant to 20 U.S.C. §1415(i)(2).

**SO ORDERED** this the 10th day of January, 2024.

  
AMANDA BRADLEY  
HEARING OFFICER

cc:

[REDACTED]  
[REDACTED]

Dr. Chad O'Brian  
Hon. KaShonda Day  
Hon. Jim Keith  
Ms. Mona Spells Adou  
Ms. Alisa Price