

**BEFORE THE MISSISSIPPI DEPARTMENT OF EDUCATION**  
**OFFICE OF SPECIAL EDUCATION**

████████████████████

COMPLAINANT

V.

CASE No. D05222025-38

Cleveland School District

RESPONDENT

**MOTION TO DISMISS DUE PROCESS COMPLAINT**

**INTRODUCTION**

This is a proceeding pursuant to the Mississippi “*State Policies<sup>1</sup> Regarding Children with Disabilities Under the Individuals with Disabilities Education Act Amendment of 2004*” (collectively referred to as the State Policies or the IDEA), and involves a minor child (the Student or Child), initiated by the mother (the Mother or Parent, herein) of the Student by the filing of a complaint for Due Process received by the school district and the Mississippi Department of Education on May 22, 2025.

**PARTIES**

The Student is a s ████████████████████ diagnosed with ADHD, ADD and Emotional Disability. Because of severe disciplinary issues, the student was placed in a homebound program with services and accommodations to be provided as specified in the IEP.<sup>2</sup> The parent insisted the student’s disability was not considered regarding her placement and the Student should not have been expelled from the regular school.

**ISSUES AND RELIEF REQUESTED**

After securing legal counsel, the Petitioners realized the Complainant intended to submit a State Complaint, not a Due Process complaint. Counsel for the Complainant communicated with Respondent’s counsel on June 4, 2025 to clarify the intension for the case to be submitted as

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<sup>1</sup> Policies were adopted under the authority of “The Individuals with Disabilities Act (IDEA), Public Law 101-476, reauthorized as “*The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)*, Public Law 101-476 and 20 U.S.C. §1400 et.seq., Title 34 of the Code of Federal Regulations, Part 300, and the *Mississippi Standards and Procedures for the Education of Exceptional Children*, Mississippi Code §§37-23-133 through 150. The hearing officer and the Mississippi Department of Education have jurisdiction over these proceedings pursuant to the statues and code sections cited.

<sup>2</sup> Initial Complaint filed May 21, 2025

a State Complaint. Counsel for both parties agreed that all proceedings regarding case D05222025-38 be paused so the Complainant can re-file as a State Complaint.<sup>3</sup>

## CONCLUSION

With both parties in support of the request, the Complainant's Motion to Dismiss Due Process Complaint Without Prejudice is hereby **granted**. So ordered, this the 5<sup>th</sup> day of June, 2025.

*David P Daves*

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David P Daves, Ph.D.  
Due Process Hearing Officer

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<sup>3</sup> Motion to Dismiss Without Prejudice received June 4, 2025