

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

[REDACTED]

COMPLAINANT

vs.

CASE NO. D04222025-35

Lincoln County School District

RESPONDENT

DECISION AND ORDER

INTRODUCTION

This is a proceeding pursuant to the Mississippi “*State Policies Regarding Children With Disabilities Under the Disabilities Education Act Amendment of 2004*”¹ (collectively referred to as the State Policies or the IDEA, herein), and involving a minor child (the Student or Child, herein), 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, or about, April 22, 2025.

PARTIES

The Student is a [REDACTED] attending the only [REDACTED] school

¹ Policies were adopted under the authority of the “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 statute and code sections cited.

in the District. The current eligibility date is May 13, 2024 with the primary eligibility categories of Specific Learning Disability: Basic Reading, Reading Fluency, Math Problem Solving, and Written Expression². This is the second year in the [REDACTED] as [REDACTED] failed reading and math in the 2023-2024 school year. The 2024-2025 IEP was developed on May 22, 2024, with an implementation date of August 5, 2024. The respondent is a Mississippi Public School District (District, herein) in which the student was enrolled during the 2023-2024 school year.

ISSUES AND RELIEF REQUESTED

The Parent filed a REQUEST FOR DUE PROCESS HEARING UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES ACT 2004 AMENDMENTS received by the Mississippi Department of Education April 22, 2025. The request stems from the findings issued in Formal State Complaint No. 01072025-36. The initial complaint identified two (2) issues to be considered:

- A. A Free Appropriate Public Education (FAPE) has not been provided due to the District's failure to provide appropriate services, failure to provide appropriately trained staff, and inappropriate IEP development issues.
- B. A breach of confidentiality of personally identifiable information under IDEA and FERPA.

In January 2025, a Formal State Complaint was filed by the Mother to the Mississippi Department of Education (MDE). It is to be noted the Mother has total and complete custody of

² 2024-2025 IEP District Exhibit 6

the Child. Corrective actions identified in State Findings included (1) Convene the Student's IEP Committee and ensure the Student's goals are appropriate, (2) Ensure the Student's IEP is implemented as required, (3) Determine if compensatory services are warranted for the District's failure to revise the Student's IEP, (4) Submit the revised IEP to MDE within 48 hours, (5) Ensure all District staff participate in professional development training on the District's policies and procedures regarding IDEA and FERPA's provisions of confidentiality.³

DISCUSSION OF ISSUES

A hearing officer's role is not to second guess state and local policy decision, but to determine whether school officials have complied with applicable law, and if not, decide proper remedy.⁴ The law does not require that a school district provide the best education possible. Rather, the law requires only that a district provide access to public education "sufficient to confer some educational benefit upon the handicapped child."⁵ That benefit must not be of a mere de minimis nature, but likely to result in progress, rather than "regression or trivial educational advancement."⁶ The Parent, as a challenger of the District's actions in this case, has the burden of proof as to all issues presented in this matter.⁷

In deciding whether the requirements of the IDEA have been met, the first question to consider is whether the District complied with the procedures of the IDEA. Procedural violations, in and of themselves, do not amount to a denial of a free appropriate public education (FAPE) unless the violations result in a lose of educational opportunity to the student or seriously

³ *Formal State Complaint No. 01072025-36.*

⁴ *Flour Bluff Independent School District v. Katherine M.* 91 F.3d 689.693 (5th Cir. 1996)

⁵ *Houston Independent School District v. Bobby R.* 200 F.3rd 341.28 31 IDELR 185 (5th Cir. 2000)

⁶ *Cyprus Fairbanks Independent School District v. Michael F.*, 118 F.3rd 245, 4 (5th Cir. 1997)

⁷ *Schaffer v. Weast*, 546, US 4, 51 (5th Cir. 2005)

infringe upon the Parent's opportunity to participate in the provision of FAPE to the Student.⁸

The District provided substantial evidence as to the progress the Student has made and is making and the Parent's opportunity to participate in the educational decisions.

Second, the substantive issues are addressed by the answers to a two-prong test to determine eligibility for special education services. The first prong is to establish whether the student has a qualifying disability under IDEA and State Policies (§300.304-300.312). If the first prong is met, the second prong focuses on whether "...the student having a qualifying disability...and who by reason thereof, needs special education and related services." (§300.8) The Parent argued the District had taken an excessive amount of time to determine if the Student had a disability and to offer related services to the child. The District provided evidence that the appropriate steps were taken in a timely manner, evidence of the Tier process used, evaluations conducted and appropriate services provided based on that data.

The Parent represented herself and called two witnesses, the Child's [REDACTED] and a family friend who was familiar with the Student. The [REDACTED] was asked a limited number of questions, none of which were related to the Child's performance in school. The family friend was asked to speak on behalf of the Child and offered very little information as it related to the hearing. Counsel for the District objected to much of the testimony of the family friend, and the objection was sustained.

Relief sought by the Parent included: eligibility of compensatory educational services for lost of instructional time; assurance of complete IEP implementation with fidelity; and review and monitoring of staff compliance regarding confidentiality and special education service. The District provided evidence that compensatory services were not warranted and had taken

⁸ *Adams J. v. Keller Independent School District*, 328 F.3d 804 (5th Cir. 2003); State Policies §300.513.

corrective actions to ensure the Student's IEP reflected mastery of IEP goals. The time taken to determine the Child's disability was appropriate and was not excessive. The District provided evidence the IEP Committee met within the 48 hours specified in the Formal State Complaint Findings and appropriate accommodations were included in the IEP, and the District provided evidence that professional development training has been conducted for all staff regarding IDEA and FERPA provisions of confidentiality.

In addition to the aforementioned relief sought, the Parent wanted the hearing officer to move the Child from the school within the district to a different school in a different district. And, the Parent asked the hearing officer to have two teachers removed from their positions because of child abuse.

School attendance is regulated by state law and determined based on where the child resides. The hearing officer does not have the authority to override state law and place a child in a different district. Also, child abuse is a criminal offense and a due process hearing is not a criminal court. The Parent was advised to report those actions to the appropriate agencies who would have the authority to prosecute if necessary.

Counsel for the District moved the case be dismissed because the Parent had not met the burden of proof and the motion was sustained.

CONCLUSION

Based on the evidence presented, the Parent failed to provide proof as to issues of Child Find and providing a free appropriate public education. Evidence supports the District properly evaluated the Child and took appropriate steps in monitoring the Child's progress through the

Tier interventions. The District accurately identified the disabilities under §300.8 for which the Child qualifies for special education and related services and provided appropriate support.

There being no violations of Child Find or denial of FAPE, reimbursement for any compensatory services and/or compensatory education are not warranted. And, because other requests for relief are beyond the purview of this hearing officer, the Parent's request is denied and the complaint is DISMISSED WITH PREJUDICE.

RULING

Case Number D04222025-35 is **DISMISSED WITH PREJUDICE**.

So ordered, this the 22th day of August, 2025.

David P Daves

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