BEFORE THE MISSISSIPPI DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION

PARENT,[1] ON BEHALF OF HER CHILD **COMPLAINANT**

v. **Case No. D05072025-36**

SCHOOL DISTRICT **RESPONDENT**

FINAL DECISION AND ORDER

1. This matter having come before the undersigned upon the Complaint for Due Process of the Complainant herein, the undersigned, having considered the pleadings and the evidence submitted at the hearing of this matter, the arguments, statements, and memoranda of counsel, and the applicable law, finds as follows:

2. This is a proceeding pursuant to the Mississippi "State Policies Regarding Children with Disabilities Under 'The Individuals with Disabilities Education Act Amendments of 2004'"[2] (collectively referred to as the State Policies or the IDEA, herein), and involving a child residing within the boundaries of the respondent public school district.

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[1]Because the Student is a minor the Parent's name, the name of the Student on whose behalf the Parent filed the Complaint for Due Process, and the name of the School District are set forth on a cover sheet to this Final Decision and Order that is to be a part of the original of this Order maintained in the administrative record for this case by the Mississippi Department of Education but is not to be reproduced or disseminated outside that administrative record. In order to further protect the privacy of the Student the Student's School and District and the professionals of the District who testified are not identified by name in the body of the complaint but are identified in a Key that is found at page two of the foregoing-referenced cover sheet.

[2]Which Policies were adopted under the authority of "The Individuals with Disabilities Education Act (IDEA)," Public Law 101476, reauthorized as "The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)," Public Law 108-446 and 20 U.S.C. Sections 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, and are codified as Mississippi State Board of Education Policy 7219, Mississippi Administrative Code Title 7, Part 34, more particularly described as "State Policies Regarding Children with Disabilities under the Individuals with Disabilities

3. The Complainant (also called Petitioner, herein), the Parent of the Student, instituted these proceedings by filing a Complaint for Due Process with the Mississippi Department of Education on May 7, 2025, in the interest of Complainant's child (referred to herein as the Child or the Student or as the subject Child or the subject Student). The Respondent is a public school district organized under the laws of the State of Mississippi (see footnote 2).

4. The Student, born [redacted], first was found eligible for special education (category: developmental delay) as a [redacted] in September 2022. As a result of an April 2023 reevaluation the Student was found eligible for special education under the Autism Spectrum Disorder category. The Student started [redacted] at the District School at the beginning of the 2024-2025 school year and has communication, behavior regulation, sensory regulation, functional skill, and toileting needs (the Child is toilet trained as to urination but not as to bowel movements, at home or at school).

5. An IEP meeting was held for the Child May 14, 2024, while the Child was in [redacted]. The Parent enrolled the Child in the District School [redacted] August 6, 2024. On August 19, 2024, the [redacted] Teacher notified the Parent that the Child was having toileting accidents at school. The parent requested occupational therapy [OT] services around September 18, 2024. An OT evaluation was conducted on or about October 2, 2024. The evaluation found that the Child had sensory integration, cognition, behavior, fine motor coordination, communication, and activities of daily living (ADL) performance deficits. The IEP team added OT services to the Child's IEP on November 4, 2024.

Education Act Amendments of 2004 (Rev. 2013)" (referred to hereinafter as the State Policies). The hearing officer and the Mississippi Department of Education have jurisdiction over these proceeding pursuant to the statutes and code sections cited. The record, left open at the conclusion of the presentation by the parties of their respective cases, is now closed.

6. Both the Parent and the [redacted] Teacher testified that the Child's toileting accidents increased as the school year went on, from once or twice a week to three or four times per week. According to the Parent's testimony, the Parent, at the February 10, IEP meeting, requested "extra help" for the Child at school due to the toileting accidents but was told more data was needed.[3] The District denied the request but permitted the Parent to hire at Parent's expense a private aide for a ten day trial period (February 13, 2025 - February 25, 2025). The Child had no bowel movement and accordingly no bowel movement accidents during that time. Data collected during that time period recorded that the Child twice placed in the mouth inedible objects: dried playdough pulled from a rug on February 13 and two blocks on February 19.

7. The IEP team met again on February 27, 2025. The Parent was concerned about the Child's tendency to place inedible objects in the mouth and requested a one-to-one aide for the Child. The Team rejected the Complainant's request for a one-to-one aide for the Child, citing a "student needs rubric" and a "behavior tracker" as the bases for the refused request. The Special Education (SPED) Teacher testified that the rubric was completed by the SPED Teacher, the [redacted] Teacher, the OT, and the Speech Language Pathologist (SLP) working together. The Positive Behavior Specialist (PBS) testified that they were instructed to fill out one rubric form together rather than filling out individual forms and that no toileting data had been collected at the time the rubric was filled out.

8. The rubric states that the activities or behaviors that were difficult or problematic for the child included "bowel movements on the toilet, attending to whole group writing, attending to a task, [and] putting inappropriate objects in mouth." Under the portion of the rubric that asked the preparers to identify the Student's Strengths and interests," these questions, among

[3] I do not see that that request and the denial of the same are mentioned in the PWN for the February 10 IEP meeting, but I find the testimony believable because it was after the February 10 meeting that the District permitted the Parent to hire a privately funded aide for ten days.

others, were asked: "Are there any times and/or activities where the student NEVER requires assistance" and "Does the student have strengths in the area of self-management?" To both questions the preparers answered "no." The rubric preparers also noted that "[the Student] has a habit of putting things in [the Student's] mouth. This can be prevented by holding [the Student's] hand/constant 1:1 supervision."

9. The team revised the child's IEP on February 27, 2025, to add 30 minutes of inclusion services, to reduce resource (special education instruction outside of the regular classroom) time, and to add a behavior goal.

10. An IEP meeting was held on March 17, 2025, in response to the Parent's concern about the Child placing inedible objects in the mouth and the Parent's renewed request for a one-to-one aide. The IEP team again rejected that request. In the area of the Prior Written Notice (PWN) where the team is supposed to set out a description of "the evaluations, tests, records, or reports that were used as the basis for the action(s) proposed or refused," State Policies, § 300.503 (b), (3), the person who filled out the PWN for the Committee wrote the numeral 0 with a slash through it indicating "none."

11. Another meeting was held on March 31, 2025. The Parent had questions concerning the Child's safety. The Committee considered, among other things, the Parent's ongoing request for a one-to-one aide and a request for homebound services for the Child. The Parent and the other members of the Committee agreed the Parent would send the Child to school for two weeks,[4] at the conclusion of which the Child's record would be reviewed and the Parent's request for an aide reconsidered. The IEP team proposed a toileting schedule to be tracked with toileting every 20 minutes for the two-week trial period using a documentation

[4] The Parent kept the Child out of school a number of days prior to that agreement. The Parent testified the absences were due to the Parent's concern for the child's safety due to the Child's tendency to place objects in the mouth.

form. The Committee agreed to meet again at the end of that time for further discussion. Another IEP meeting was held April 16, 2025, at which the tracking plan was revised to include interventions provided. No one-to- one aide was assigned. The Parent withdrew the Child from School on April 28, 2025.

12. On May 7, 2025, the Parent filed a Complaint for Due Process alleging that the District failed to:

1. implement appropriate supports and services regarding the Child's toileting issues;
2. implement appropriate supports and services regarding the Child's behavioral difficulties that include placing non-edible items in mouth;
3. adjust services when a pattern of accidents emerged;
4. include a measurable and individualized toileting goal in the child's IEP;
5. include knowledgeable members on the Child's IEP team; and
6. maintain accurate progress monitoring.

13. A hearing was held in this matter on July 23, July 28, and August 7, 2025. The Complainant called two witnesses: the Complainant and an Expert Witness, Danita Munday. The District called six witnesses: the Child's Occupational Therapist (OT), the District Positive Behavior Specialist (PBS), the District Speech Language Pathologist (SLP), the Child's [redacted] Teacher (general education), the Child's Special Education Teacher (SPED Teacher), and the District Director of Special Education Services (SPED Director).

14. The purpose of the IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living ... [and] that the rights of children with disabilities and parents of such children are protected." 20 U.S.C.A. § 1400(d)(l)(A)-(B). States receiving

federal funds must make a FAPE available to all children with disabilities living within the state. *Forest Grove Sch. Dist, v. T.A.*, 129 S. Ct. 2484, 2487 (2009). Each child with a disability must be evaluated by the local or state educational authority in order to develop a written "individualized education program" (IEP) including special education and related services. 20 U.S.C.A. § 1414(d).

15. In Mississippi, an IEP committee (sometimes called an IEP team) at the local education agency [LEA], in this case, the District, develops the student's IEP. Policies, §§ 300.320 - 300.321. IEP committees are composed of various teachers and related service providers from the school in which the student is placed at the time. The student's parents also are members of the IEP committee. Policies, § 300.321. If the parents disagree with an IEP committee decision, they may file a due process complaint specifying the grounds of their disagreement. Policies, § 300.507.

16. A hearing officer's role in considering a due process complaint is not to second guess state and local policy decisions but to determine whether school officials have complied with applicable law, and if not, what the proper remedy should be. *Flour Bluff Independent School. Dist. v. Katherine M.*, 91 F.3d 689, 693 (5th Cir. 1996). 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 child. *Houston Independent School District v. Bobby R.*, 200 F. 3rd 341, ¶ 28, 31 IDELR 185 (5th Cir. 2000). That benefit must not be of a mere *de minimis* nature, but likely to result in progress, rather than "regression or trivial educational advancement." *Cypress Fairbanks Independent School District v. Michael F.*, 118 F. 3d 245, ¶ 4 (5th Cir. 1997). The education offered must also must be "reasonably calculated to enable a child to make progress appropriate in light of the

child's circumstances." *Endrew F.*, *Endrew F., v. Douglas County School District*, *Endrew F., v. Douglas County School District*, 580 U.S. 386, 137 S. Ct. 988; 197 L. Ed. 2d (2017) (slip opinion at 15).

17. The Parent, as challenger of the District's actions in this case, has the burden of proof as to all issues presented in this matter. *See*, *Adam J. v. Keller Indep. Sch. Dist*., 328 F.3d 804, 808 (5th Cir. 2003).

18. In deciding whether the requirements of the IDEA have been met and FAPE provided, the first question to consider is whether the school district has met the procedural requirements of the IDEA. *Buser v. Corpus Christi Independent. School District*, 51 F.3d 490, 492 (5th Cir. 1995). Procedural violations, in and of themselves, do not amount to a denial of a free appropriate public education [FAPE] unless they (1) impede the child's right to FAPE, (2) significantly impede the parent's participation in the decision-making process, or (3) cause a deprivation of educational benefit. State Policies 300.513 (a) (2). See also, *Adam J. v. Keller Independent School District*, 328 F.3d 804 (5th Cir. 2003);

19. Second, the hearing officer asks a substantive question: was the IEP "reasonably calculated to enable the child to receive educational benefits." *Buser v. Corpus Christi Independent. School District*, 51 F.3d 490, 492 (5th Cir. 1995), citing *Board of Education v. Rowley*, 458 U.S. 176, 206-207 (1982).

20. Complainant argues that three separate procedural violations constituted a denial of FAPE.

a. Lack of a Knowledgeable Agency Representative.

21. The State Policies require an IEP committee to include, among others, a school representative "qualified to provide, or supervise the provision of, specially designed instruction

to meet the needs of children with disabilities; . . . and" one who "is knowledgeable about the availability of resources of the public agency." § 300.321 (a) (4). School personnel were aware from as early as August 19, 2024, that the Child was not toilet trained. The IEP team apparently was unaware of any person on staff who could change the Student when toileting accidents occurred. Certainly no one on the IEP team informed the parent of such availability until the March 17, 2025, IEP meeting, according to the Parent's testimony. Consequently the Parent had to travel to the School to change the Child when those events happened. The Parent's testimony in that regard essentially was confirmed by the [redacted] Teacher who testified that a [redacted] assistant was available sometime after Christmas to change the Child – the teacher was not certain as to the date. According to the testimony of the [redacted] Teacher, before the assistant was available, the Student would not be changed until the Parent arrived at school to change the Child, not only causing inconvenience for the parent but causing the Student to miss at least some class time. Given the fact that the Child's toileting deficit was a significant deficit for the Child with both social and health ramifications, I conclude that the District's failure to have a person on the IEP team aware of such a needed resource as someone to change the Child and to inform the Parent of the availability of such a person, at minimum, "significantly impede[d] the parent's participation in the decision-making process" by depriving the Parent of the right to have the supports for the Child to which the Child was entitled and caused a deprivation of an educational benefit and thus constituted a denial of FAPE.

b. Inaccurate/Incomplete Progress Monitoring

22. Complainant argues that the District failed to maintain valid progress-monitoring data and to report on progress regarding the Child's annual goals by failing to "collect or maintain *any* toileting data." See State Policies § 300.320 (a) (3). Although the Child

experienced toileting accidents from the beginning of the school year and the same increased as the year progressed – by February 2025 the accidents were occurring almost daily – the IEP did not contain a plan for addressing the Child's need for toilet training until well into the well into the second semester. That failure constituted a failure more appropriately considered under the substantive analysis portion of this decision and order.

c. Incomplete Prior Written Notice

23. Complainant contends that the District's Prior Written Notices were deficient. The example given of such a problematic Prior Written Notice (PWN) is the PWN dated March 17, 2025, in which the IEP committee refused the Complainant's request for a one-to-one aide for the Student. When an IEP Committee considers a request from a parent the resulting PWN must contain an "explanation of why the agency proposes or refused to take the action." State Policies, § 300.503 (b) (2). In this case the Committee's explanation for refusing the requested aide was "data doesn't support." State Policies also require the PWN to contain a description of "the evaluations, tests, records, or reports that were used as the basis for the action(s) proposed or refused." State Policies, § 300.503 (b) (3). In response to that requirement the person who filled out the PWN for the Committee wrote the numeral 0 with a slash through it indicating "none."[5] If there was data upon which the decision to deny Complainant's request for a one-to-one aide and it was not disclosed to the Complainant certainly that had the potential to "significantly impede the parent's participation in the decision-making process." I do not find, however, that Complainant has met the burden of proving that procedural error did in fact have that effect.

[5] The typed, unsigned version of the page wrote out the word "none."

24. The Complainant also argued a denial of FAPE resulting from substantive issues. *Cypress Fairbanks Independent School District v. Michael F*., 118 F. 3d 245, 253 (5th Cir. 1997) designates four criteria to be considered in determining whether a District has met the substantive requirements of the IDEA:

(1) Was the IEP individualized on the basis of the student's assessment and performance;

(2) whether the program were administered in the least restrictive environment;

(3) whether the services were provided in a coordinated and collaborative manner by the key stakeholders; and

(4) whether positive academic and non-academic benefits were demonstrated?

Was the IEP individualized on the basis of the student's assessment and performance?

25. All the witnesses and the documentary evidence establish that, notwithstanding the Child's disability, the Child is very bright and did well academically in both reading and math, making As in the former and As and Bs in the latter. I find no deficiency in the individualization of the Child's IEP regarding academic assessments or performance.

26. A school district, however, is required to assure that a child "is assessed in all areas related to the suspected disability, including, if appropriate," the health, social and communication spheres. From the beginning of the 2024-2025 school year there was no question but that the Child was not toilet trained regarding bowel movements. Yet, the IEP has never contained a specific toileting goal. Neither was any data collected regarding the Child's toileting deficiencies until well into the second semester.

27. As the Child's [redacted] Teacher indicated on cross examination, a significant problem in addressing the Student's toileting problem is the Child's communication deficit.[6] Yet,

[6] Q. So in order to address the [toileting] deficit, would you agree that there needs to be information

the District never had the Child evaluated for the purpose of determining whether the Child could profit from the use of assistive technology. The District SLP testified that use of assistive technology is not favored for a young child out of a concern that a child might unnecessarily become dependent on it. I did not find the SLP's testimony persuasive on this point, however, because the SLP also testified that (1) whether a child requires Assistive Technology depends on the child; (2) the SLP who testified was not involved in the decision not to provide the child with assistive technology; and (3) the SLP would not describe the Child's speech deficit as "significant," even though at six years of age the Child's communication was primarily limited to one word responses and, according to the [redacted] Teacher the Child was unable to tell adults when the Child needed to use the bathroom. Moreover, the Complainant's Expert testified that whether the Child requires assistive technology would require "an assistive technology evaluation by someone who's qualified to do that . . . ." I found the Complainant's Expert's testimony persuasive on that point because, among other things in the record, the Expert's (a) extensive experience with autistic children in a variety of settings; (b) familiarity with state requirements as evidenced by an extensive past association with the State Department of Education; (c) role in drafting the IDEA State Policies; and (d) role in teaching educators around the state about those regulations. I find that, at minimum, the District should have evaluated the Child for assistive technology and its failure to do so rendered the IEP not sufficiently individualized based upon the Student's assessment and performance.

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about what exactly would be holding [the Student] back?

A. I mean, [the Student] can't tell us. But, I mean, it would be nice if [the Student] could tell us what [the Student's] scared of, why [the Student] doesn't want to go on the potty. But [the Student] can't vocally tell us that.

Vol. II at 209.

28. Moreover, the Child's toileting accidents increased over the course of the year. Complainant's Expert testified that in peer reviewed studies toileting training in a school setting is done with a one-to-one staff to child situation because of the need to ensure consistency, documentation, immediate action, and to maintain a healthy environment for the subject of the training and for surrounding children.

29. Complainant's expert also testified that when children like the Student have a habit of putting inedible things in their mouths they require one to one supervision and must be watched closely because the habit is a dangerous and unsanitary one. Behavior records from February 2025 indicate the child twice attempted to put inedible things in the mouth during a two week period: blocks and dried gum from a rug. The District was aware of that tendency in the Child from the beginning of the School Year. The Parent's undisputed testimony established that the child choked and, as a result, vomited, during the first two weeks of school. The Parent also testified, again without contradiction, that on two occasions when the Parent came to the school the Child was brought to the office with foreign objects in the child's mouth. On one occasion the object was a bead and on another the object was a paper clip. That a teacher could bring the Child to the office apparently unaware that the Child had a foreign object in the mouth not only once but on two occasions strongly supports the proposition that a one-to-one aide is necessary for the safety of the Child.

30. I also find it significant that school staff, in completing the "student needs rubric" wrote that there were never any times that the Student did not require assistance, and that the Student's habit of placing things in the mouth could be "prevented by holding [the Student's] hand/constant 1:1 supervision." District witnesses testified that "1:1 supervision" did not mean one-to-one supervision. For example, the SPED Teacher testified:

> Yes, so holding [the Student's] hand means like transitioning, like we're going to hold our hands transitioning from one thing to another. And then the one-to-one supervision just means that we're supervising what [the Student] has, so if it's – you know, if we're working cubes, then we – [the Student's] being supervised and we know that, you know, [the Student] might put it in [the Student's] mouth so we need to be aware of that.

31. Similarily, the SLP explained the rubric's language concerning "1:1 supervison" thus: "So for the constant supervision and redirection, this is meaning that [the Student's] always supervised, you know . . . . [the Student's] always – you know, [the Student's] never alone. We're always supervising [the Student]."

32. I am more persuaded by the Complainant's Expert's testimony and what school staff members wrote at the time the rubric was filled out than by subsequent and somewhat ambivalent and uncertain testimony contradicting the plain meaning of the earlier written words. Clearly a single teacher in a room with 18 children[7] is in no way "1:1 supervison." It is equally plain that a child who is able to place a paper clip in the mouth on one occasion and a bead in the mouth on another and who can be brought to the office with school personnel apparently unaware of the object in the child's mouth is plainly not adequately supervised even if the child is never alone. I find the Child's toileting needs and tendency to place inedible and dangerous objects in the mouth necessitate that the Child have a one-to-one aide and that because the IEP did not include that support it was not individualized on the basis of the student's assessment and performance.[8]

[7] According to the Parent's testimony the music teacher said there were 17 other students in the Child's class in addition to the Student.

[8] District witnesses testified that the Child's unwanted behaviors increased when the private one-to-one aide was present. If that is so it may well be because the Child was not accustomed to the constant redirection received from the aide or because aide was not properly trained. The District SPED director testified that the aide was not certified as a registered behavior technician in Mississippi and "did not have the qualifications to be considered for a teacher assistant" position in this State.

33. According to the Student Needs Rubric discussed above, the student had no strengths in the area of self-management and frequently exhibited behaviors that interfered with the Child's learning and the learning of other students. Specifically, the Student daily engaged in "stemming," something common with autistic children and described by the District PBS as follows: "For the student that we're talking about now, sometimes [the Student] flaps. Sometimes [the Student] does get up and pace a little bit. [The Student] spins in circles, and sometimes [the Student] makes noises auditory." The District, however, never conducted a Functional Behavioral Assessment (FBA), even after, according to the testimony of the PBS, the Child exhibited a sudden increase in maladaptive behaviors such as hitting, scratching, and spitting.

34. The Complainant's expert testified that you cannot correct a child's behavior unless you understand what the function of that behavior is. No Functional Behavior Assessment has been conducted regarding the Child. I find the District's failure to do that a failure to individualize the Child's IEP on the basis of the student's assessment and performance.

Was The Program Administered In The Least Restrictive Environment?

35. The Complainant does not dispute that the Student's IEP has been administered in the Student's least restrictive environment. I find this element is satifisfied.

Were the Services Provided in a Coordinated and Collaborative Manner by the Key Stakeholders?

36. To provide services in a coordinated and collaborative manner requires that there be a mutual understanding among the providers as to what the services to be provided are and how they are to be provided. When a toileting protocol was initiated there was a lack of uniformity as to its implementation. The PBS, who, according to the Child's [redacted] Teacher, provided the instruction as to the protocol's implementation testified as to having had

no training as to the protocol. The PBS did not provide the specific language to be used by the teachers in working with the Child on toileting, but did testify that uniform and regular use of specific words in taking the Child to the bathroom were necessary.

37. That language, however, does not appear to have been uniform among the Child's teachers. The SLP, for instance, testified, "I believe we would ask, 'Do you want to go potty,' or 'Do you want to go – ' you want – not 'Do you need to go potty,' or 'do you need to go to the bathroom?' Or, if it was during one of those 20 minute periods, we would say, "Okay, it's time to go to the bathroom." The [redacted] Teacher, on the other hand, testified that the teachers were instructed not to use the word "potty" but to say "do you have to go to the bathroom." Additionally, the PBS also testified to having not seen progress monitoring regarding the Child's behaviors from the SLP prior to February 25 and had never seen progress monitoring data from the OT. So as to two of the Child's biggest needs, toileting and behavioral modification, all teachers were not acting in concert. Accordingly, I find that services were not provided in a coordinated and collaborative manner by key stakeholders.

Were Positive Academic and Non-Academic Benefits Demonstrated?

38. Whether the Child received positive academic benefits is not at issue here. On the other hand, maladaptive behaviors increased and toileting accidents increased during the course of the school year. Accordingly, I find that positive non-academic benefits were not sufficiently demonstrated in this Child's case.

39. Viewing the foregoing through the lens of *Endrew F. v. Douglas County School District*, I find that a preponderance of the evidence establishes that the Child's IEP was not "reasonably calculated to enable [the] child to make progress appropriate in light of the child's circumstances." *Endrew F., v. Douglas County School District*, 580 U.S. 386, 137 S. Ct. 988;

197 L. Ed. 2d (2017). While the child did receive academic benefits, the IEP's failure to appropriately evaluate the Child and to provide appropriately for the Child's toileting and health and safety needs caused the IEP to fall short of the *Endrew F.* standard.

40. The foregoing considered, the respondent District is ordered to

> a. Revise the Child's IEP to include a measurable and individualized toileting goal with appropriate baselines, criteria, and data collection procedures.
>
> b. Assign within a reasonable time (not to exceed 20 school days) from the date hereof a dedicated one-to-one aide to support the child during all school hours, said support to include attentiveness to the child's safety (specifically the Child's tendency to place things in the mouth) and tending to the Child's toileting needs. The aide, at minimum, must meet any legal the requirements for serving in such capacity, and shall be trained as to data collection and implementation of such toileting protocols as the IEP team or committee shall adopt.
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> c. Conduct a functional behavior assessment (FBA) focused on toileting, followed by development and implementation of a behavior intervention plan (BIP) if needed.
>
> d. Conduct as soon as is feasible an evaluation of the Child by an appropriate licensed professional for the purpose of determining whether assistive technology is appropriate for the Child.

41. The IEP team or committee may revise the IEP to discontinue the one-to-one aide at such point as it may determine the aide is no longer required for safety and toileting purposes but such a decision may not be made sooner than 90 calendar days after the aide is assigned and begins service nor shall it be made without ten school days' prior notice in writing to the parent of such discontinuation.

42. I do not find that the Parent has met the burden of proof as to other requests for relief and therefore the same are denied.

43. A party aggrieved by this Decision and Order has the right to file a civil action in a court of competent jurisdiction as set forth in the State Policies, § 300.516.

44. So ordered, this the 13th day of October, 2025.[9]

James T. McCafferty
Hearing Officer

[9] The original of this Decision and Order is being filed with the Mississippi Department of Education.