BEFORE THE MISSISSIPPI DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION

PARENT,[1] ON BEHALF OF PARENT'S CHILD **COMPLAINANT**

v. **Case No. D08152025-2**

SCHOOL DISTRICT **RESPONDENT**

FINAL DECISION AND ORDER

1. This matter having come before me, the undersigned hearing officer, upon the Complaint for Due Process of the Complainant herein, I, the undersigned, having considered the pleadings and the evidence submitted at the hearing of this matter, the arguments, statements, and memoranda of the parties, and the applicable law, find 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 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 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 presentations by the parties of their respective cases, is now closed.

3. The purpose of the IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education [FAPE] 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).

4. 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.

5. 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 August 15, 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).

6. The Child whose education is the subject of this proceeding is a [redacted] year old (born [redacted]) with a special education eligibility ruling of autism spectrum disorder. The Child was first diagnosed with autism at the age of 19 months. The Child also has been identified as having adaptive, social-emotional, and communication deficits, a dairy allergy, and pica (a tendency to place inedible objects in the mouth). The Child attended a [redacted] Center[3] (the [redacted] Center, herein) during the 20[redacted]-20[redacted] school year and during that time was accompanied each day by a one-on-one Registered Behavior Technician. The Child's IEP dated August 29, 2023, (the beginning of the year at the [redacted] Center) states that the Child at all times wears a device with the brand name AngelSense.

7. The AngelSense device is a GPS tracking device with optional one-way and two-way audio communication features such that it can be operated much like a walkie-talkie. The device's audio communication capabilities can be disabled. The device does not record. Neither does it otherwise store or capture conversations. It has no video capability. According to a brochure in evidence published by the company that markets the device, the device is designed specifically for children with sensory sensitivity and cognitive issues, such as autism.

8. The Child's parents are divorced. The divorce decree, entered by a Chancery Court of the State of Mississippi,[4] included a child custody order that provided, *inter alia*, the "[t]he child is to wear [the] Angel Sense [sic] Autism tracking devise at all times via the non-removable belt. . . . [I]t is only to be removed for bath time or for the required 1 hour charge time . . . ."

[3] The name of the [redacted] Center is listed on the cover sheet to this Order.

[4] The name of the Court and the style and docket number of the case are listed in the Key that is part of the cover sheet to this Order.

9. The Child's IEP team met April 26, 2024, to develop an IEP for the Child's transition from [redacted] to [redacted] at the Elementary School (District School, Elementary School, or School, herein)[5] the Child was to attend. At that meeting the least restrictive environment (LRE) for the child was changed from [redacted] to the District School. The Parent requested an elopement plan and one was developed at a subsequent IEP team meeting on May 20, 2024. The plan was signed at a meeting of the IEP team held on July 29, 2024. An Emergency Action Plan (EAP) also was developed at that meeting for responding to incidents that might occur involving the Child's dairy allergy. The July 29, 2024, IEP, like previous IEP versions going back to May 24, 2023, contained this statement in the Present Levels of Academic Achievement and Functional Performance (PLAAFP) section: "[The Child] wears an Angel Sense tracking device at all times."

10. The Parent first enrolled the Child in the District School in August 2024. On August 2, 2024, the principal of the school told the Parent that the Child could not wear the AngelSense device to school. The Parent did not return the Child to the District Elementary School after that date. The IEP team met on August 16, 2024. At that meeting the team removed the words "an Angel Sense" from the PLAAFP and replaced them with the words, "a GPS," causing the modified PLAAFP to read: "[the Child] wears a GPS tracking device at all times." The Team at that meeting also changed the Child's LRE to Home Bound Services.

11. On December 6, 2024, the IEP team met again, this time to revise the IEP to change the Child's LRE from homebound to general education setting because, according to the testimony of the District Case Manager, the Child "was not having full access to everything that a kindergarten student should have access to." The Parent subsequently enrolled the child in a

[5] The name of the Elementary School is listed in the Key that is part of the cover sheet to this Order.

Private School,[6] (the Private School, herein) that, according to the Parent, is "autism specific." The Child's school days at the Private School are from 8 a.m. to 11 a.m.

12. The Parent's Complaint alleges that the District failed to develop and implement an "IEP that is reasonably calculated to provide [the Child] with a Free Appropriate Public Education (FAPE) in accordance with the Individuals with Disabilities Education Act (IDEA)" that "address[ed the Child's] unique and complex needs" and that the IEP "lacks appropriate, measurable goals, specially designed instruction, and accommodations necessary to enable [the Child] to make meaningful educational progress." The Complaint further alleges that by refusing "to allow the AngelSense device" and "refus[ing] to include it in [the Child's] IEP the Child was denied access to education and thus, denied FAPE.

13. A hearing was held in this matter October 21 and 22, December 8, and December 11, 2025. The Complainant called three witnesses: the superintendent of the District (the Superintendent, herein), a District principal (the Principal, herein), and the Complainant. The District called four witnesses: the former case manager (Case Manager, herein) for the child's District School; the District occupational therapist (OT or Occupational Therapist, herein), the District Case Manager (District Case Manager, herein), and the assistant director for special services for the District (Assistant Director, herein).

14. A hearing officer's role in a due process hearing 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

[6] The name of the Private School is listed in the Key that is part of the cover sheet to this Order.

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 also must be "reasonably calculated to enable a 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) (slip opinion at 15).

15. The Parent, as challenger of the District's actions, 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).

16. 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. Policies 300.513 (a) (2). See also, *Adam J. v. Keller Independent School District*, 328 F.3d 804 (5th Cir. 2003).

17. I find no procedural violations presented so I will proceed to the second and substantive part of the analysis: 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). *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?

18. The District produced evidence that the IEP was individualized as to academics and special services. The IEP team met in April 26, 2024, May 20, 2024, and on July 29, 2024, to produce an IEP specifically for the Child that included an EAP to address any complications arising from the Child's dairy allergy, an elopement plan to deal with elopement concerns, a behavior intervention plan, and occupational therapy sessions. The IEP also provided that the "Student will have increased supervision during all transitions, lunch, PE, and recess and emergency drills. [The Child] will be within arms [sic] reach of staff (teacher, teacher, assistant, nurse, Special Ed teacher, SLP, OT, administrator) to increase supervision during transition times as indicated. [The Child] will be only in areas with fence." The District, though, failed to individualize the IEP on one very important point. The Parent repeatedly expressed to the District the concern that the Child had a tendency to elope. The Parent provided the District with two statements from physicians supporting the use by the child of the AngelSense device, a electronic tracker specifically designed for children with autism. The Parent also provided to the District a copy of a Chancery Court order requiring the Parent to make certain the Child wore the AngelSense device at all times. Yet, the District made the decision, apparently outside the IEP

process, to prohibit the Child from attending school while wearing the device. The portion of the IEP PLAAFP that recognized that the child wore the device at all times was changed after the Parent was told the Child could not attend school wearing the device. When the Parent objected at the subsequent IEP meeting the Parent was told there would be no discussion. The fact that the IEP was changed on this very important point without consideration of the Child's unique circumstances (e.g., the Court order,[7] a history of wearing the device, statements from physicians) and with obvious predetermination causes me to find that this factor weighs in favor of the Parent. *Boone v. Rankin County Public School District*, Fifth Circuit Court of Appeals, No. 23-60333 (June 18, 2025), slip opinion at 10-11.

Was the Program Administered in the Least Restrictive Environment?

19. The IEP committee initially determined that the Student's least restrictive environment was the general education setting at the District School. After the District decided that the Child could not wear the AngelSense device to school the IEP team changed the Child's LRE to homebound services at its August 16, 2024, meeting. According to the District Case Manager that change was made "due to the [P]arent not wanting to bring [the Child] to school." The Parent's decision not to return the Child to the District School, the testimony establishes, was due to the District's refusal to allow the Child to wear the AngelSense device. Then, at the December 6, 2024, IEP revision meeting the IEP Team recognized, in the words of the District Case manager, that the Child "was not having full access to everything that a kindergarten student should have access to" and changed the LRE back to the general education at the District School.

[7] It is not insignificant on this point that the IDEA is intended not only to protect the rights of children with disabilities but the rights of their parents, as well. 20 U.S.C.A. § 1400(d)(l)(A)-(B).

20. School districts are required by the State Policies "to ensure that . . . [t]o the maximum extent appropriate, children with disabilities . . . are educated with children who are nondisabled . . . . [R]emoval of children with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes . . . cannot be achieved satisfactorily." § 300.114 (a) (2). The conflict occasioned by the AngelSense device was not a valid ground for changing the Child's LRE from classroom to homebound services under the State Policies. Indeed, the IEP team subsequently recognized that homebound services were not appropriate in the Child's case. Accordingly, I find this factor weighs in favor of the Parent.

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

21. An IEP "must be drafted in compliance with a detailed set of procedures" that "emphasize collaboration among parents and educators and require careful consideration of the child's individual circumstances." *Boone v. Rankin County Public School District*, Fifth Circuit Court of Appeals, No. 23-60333 (June 18, 2025), slip opinion at 2.

22. In this case there seems to have been almost no collaboration as to the issue of the AngelSense device. The District was aware the Child wore the AngelSense Device well before the District decided not to permit the child to wear it at school. The parent testified without contradiction that at the May 23, 2023, IEP meeting fellow team members told the Parent that they were somewhat familiar with the device because other students in the District used it. The Child's IEP drafted May 23, 2023, included in its PLAAFP a statement that the Child wore the device at all times. Each version of the IEP through July 29, 2024, also included that statement.

23. On August 2, 2024, the Principal told the Parent that the Child could not attend school wearing the AngelSense Device. The Parent provided the District with statements from

two different physicians to the effect that the Child needed the device and with a Chancery Court ordering requiring the Parent to have the Child wear the device at all times. The Parent also provided the District with a brochure by the company that sells the AngelSense device explaining its workings and tried to arrange a talk between the Superintendent and an AngelSense employee serving as a school liaison for the purpose of allaying any concerns the District had concerning the device. The Superintendent declined to talk to that person.

24. On August 16, 2024, the IEP team convened and removed the words "an Angel Sense" from the PLAAFP and replaced them with "a GPS," causing the PLAAFP to then say "[the Child] wears a GPS tracking device at all times." When the Parent objected the Parent was told there would be no discussion about the device. The Team at that meeting also changed the Child's LRE to Home Bound Services.

25. The lack of collaboration involving the AngelSense device is also evident from the obvious confusion among school staff concerning the device and the reasons for the District's decision not to allow the Child to wear it. The OT thought that device "wasn't allowed because of something with the videoing of it." The device has no video capability. The District Case manager believed the Angelsense device had an active recorder, which it does not. The Case Manager, on the other hand, thought that the removal of the words "AngelSense" was a "precautionary" measure due to the fact that the name "AngelSense" is a trademark. No one showed the Parent a copy of any written school policy prohibiting the AngelSense device. Indeed, no such written policy was introduced by the District as part of its case. It was only when the Hearing Officer specifically asked if a written policy existed and requested a copy of such policy if it did exist that one was produced by the District.

26. The written District Policy, according to the wording on its face, was adopted in November 2022 and provides in pertinent part that "only student-safety tracking devices without the capability to transmit and/or record audio and video will be allowed on school campus, on District provided transportation, and at school events." By its very wording the policy only prohibits devices that have the capability "to transmit and/or record audio ***and*** video (emphasis added)." (While the Policy does prohibit the "unauthorized . . . transmission of audio or images of other students," it does not prohibit devices capable of transmitting audio, only.) The AngelSense device has no video function whatsoever. Accordingly, by the very wording of the District's policy the AngelSense device is not a prohibited device.

27. Even if the District Policy also prohibited devices with the capability to transmit audio, only, the AngelSense device still could be made to comply with District policy. The AngelSense device is built with the capability to transmit and receive audio, the purpose of that function, according to the company's pamphlet in evidence, being to allow its use as something of a telephone by a child unable to operate a telephone in the event of an elopement or other difficulty. As the Parent testified and told the district, however, that capability can be disabled. Moreover, the Parent told the District that the District could have total control of the device while the Child was at school. Accordingly, the device could be rendered compliant with the policy even if the policy did apply to the AngelSense device.

28. The District policy, in any event, from its very wording, is not intended to be absolute. It says that "[t]he District reserves the right to deny any request for the use of a student-safety tracking device that does not meet the requirements of the District." Clearly, if the policy is reserving to the District the right to deny the use of noncompliant devices the policy contemplates exceptions to the strict wording of the policy. Moreover, the Superintendent's

testimony clearly establishes that cellular telephones are carried by many students throughout the day on campus, and that students are even allowed to use them during lunch breaks. Cellular telephones not only can be used as tracking devices, the Superintendent agreed when testifying, but unlike the AngelSense device they have the ability to record audio *and* video. The AngelSense device plainly has far less potential to violate the privacy of other students than do the cellular phones that, according to the Superintendent's testimony, are permitted and are common on District campuses. The Child's use of the device was included in the Child's IEP from May 2023 until August 2024 with no apparent privacy problems, at least none raised by the District at the hearing. It is simply unreasonable to allow students to have and operate on campus cellular telephones, which clearly violate District policy on safety tracking devices, while denying to the Child the use of a court-ordered, physician endorsed, AngelSense device that does not violate the plain wording of District Policy.

29. For all the foregoing reasons, I find that the Child's IEP was not developed or implemented in a collaborative manner. I find this factor weighs heavily in favor of the Parent.

Were Positive Academic and Non-Academic Benefits Demonstrated?

30. When the IEP team met December 6, 2024, it determined that the Student was still "struggling with transitions between subject and activities," but that there had been improvement in speech and language and, accordingly, the goals for those subjects were updated to reflect that progress. When the Child's LRE was changed back to the District School, the Parent did not return the Child to the District School and subsequently enrolled the Child in an "autism specific" private school. There, according to the Parent, the Child has instruction in language arts, math, science and all the general education subjects as well as "functional

behavior instruction" for "autism-related behaviors, communication, socialization, things like that."

31. Benefits from the Child's educational program were demonstrated while the Child was being instructed by District School personnel. On the other hand, there is a lack of data for the remainder of the kindergarten year and the current year because the Child was enrolled in the Private School, an enrollment occasioned by the District's refusal to permit the Child to wear the AngelSense device at the District School. I do not find that this factor weighs in favor of either party.

32. The School District, in spite of recommendations from physicians regarding the AngelSense device and a court order requiring the Parent to have the Child wear the device at all times, and apparently relying on a District policy that by its plain wording does not prohibit the device, refused to permit the Child to wear the device, which put the Parent in an untenable position in view of the Court order. Moreover, the District was unwilling to consider the use of the AngelSense device and made a predetermination regarding it rather than permit a collaborative discussion and decision regarding the same by the IEP team.

33. Accordingly, after considering the *Cypress Fairbanks Independent School District v. Michael F*., 118 F. 3d 245, 253 (5th Cir. 1997), factors and finding them weighing in favor of the Parent and 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), and that the Child should have been permitted to wear and use the AngelSense device while on the School campus.

34. The Parent's prayer for relief asked that the District be required to update its policies to allow the appropriate use of the AngelSense tracking device for students who require it for safety and access to FAPE, with such update to include clear guidelines for the use of such devices in special education settings. I do not find it necessary to order a revision to the District Policy because the Policy as written does not prohibit the use of the AngelSense device or a device with similar functions and, in any event, permits and envisions exceptions to the Policy.

35. Neither do I find sufficient evidence to support the Parent's request for an order for Private School Placement of the Child at the District's expense. I do not find that the Parent has established by a preponderance of the evidence that the District is unable or unwilling to provide FAPE prospectively now that the Angelsense issue is being rectified. Accordingly, as stated, I am denying the Parent's request for private school placement at the District's expense.

36. At the hearing the Parent testified to Parent's safety concerns related to a broken gate on the School playground fence that the Parent feared could provide an avenue by which the Child could elope from the School property. The evidence indicates that the problem with the gate has been remedied, although not in a manner and time frame to Parent's satisfaction. The Parent, on the one day that the Child went to the School and was being placed in a classroom (a transition time) discovered the Child chewing on an artificial fingernail, apparently picked up from a carpet. The Principal, who was present at the time of that incident, did not recall the incident exactly as testified to by the Parent but did not dispute the Parent's version. Obviously, such an occurrence raises legitimate sanitary, health, and safety concerns and should not have happened had School Personnel stayed within arm's reach of the Child during transition periods as required by Child's IEP.

37. It is, therefore, ordered that District shall

a. immediately permit the Child to return to school wearing the AngelSense device;

b. revise within ten school days of the date of this Order the Child's IEP to reflect the requirement of this order that the Child be permitted to wear and use the AngelSense device as described above; and

c. that upon the Child's return to the School the District shall follow the Child's Individual Educational Program as written, included but not limited to the provision of the IEP requiring increased supervision and requiring that the Child will be within arm's reach of staff during all transition times.[8]

38. Any and all other requests for relief are denied. .

39. 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.

40. So ordered, this the 27th day of January, 2026.[9]

James T. McCafferty
Hearing Officer

[8] This subparagraph c is not intended to prevent future revisions to the Child's IEP as may be determined through the IEP process to be necessary or appropriate so long as the Child is permitted to wear the AngelSense device as may be required by any court order and/or recommended by a qualified healthcare professional.

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