

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

[REDACTED]

COMPLAINANT

v.

CASE NO. D11072025-5

Madison County School District (District, herein)

RESPONDENT

**DECISION AND ORDER**

**INTRODUCTION**

This is a proceeding pursuant to the Mississippi “*State Policies Regarding Children with Disabilities Under the Individuals with Disabilities Act Amendments of 2004*”<sup>1</sup> (collectively referred to as the State Policies or the IDEA, herein), and involving a minor child (the Student or Child, herein), initiated by the Parent<sup>2</sup> of the student by the filing of a Complaint for Due Process received by the school district and the Mississippi Department of Education on November 7, 2025.

**PARTIES**

[REDACTED] is a [REDACTED]-year-old student with a disability enrolled in the District with a diagnosed ruling of Autism (AU), and performs several grade levels below his current grade placement. [REDACTED] attended a [REDACTED] school in the district and received instruction in the inclusion setting and

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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 status and code sections cited.

<sup>2</sup> Names of the parties, the witnesses, and the school district are stated on a cover sheet to this document filed

resource classroom before being enrolled in a private school at the request of the District. This was a public placement in a private school funded by the District, not a parent-selected private enrollment. ■■■ IEP includes both Math and Reading goals. The respondent is a Mississippi Public School District in which the student is enrolled.

## **ISSUES TO BE CONSIDERED AND RELIEF REQUESTED**

The parent (Parent or Complainant, herein) filed a REQUEST FOR DUE PROCESS HEARING UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004 AMENDMENTS received by the Mississippi Department of Education November 7, 2025. During the course of the prehearing conference held December 4, 2025, the parties agreed that the issues in the Complaint appropriate for consideration requested were:

- A. The District has denied ■■■ a Free Appropriate Public Education (FAPE) by failing to provide ■■■ with sufficient and appropriate special education, related services, supplemental aids and services, and/or program modifications or supports for school personnel to meet his unique needs resulting from his disability.
- B. The District's refusal of enforcing ■■■'s stay-put protection by keeping ■■■ in the private school identified in ■■■ IEP.
- C. The Complainant is seeking compensatory relief from the District in the form of payment for the period during which services were denied, including appropriate counseling services to remediate the impact of the disruption.

Accordingly, these are the only issues that will be considered in this Decision and Order.

## PROCEEDINGS

The due process hearing convened January 6, 2026 in the District's Administration Building. The Complainant called three witnesses that included the Special Education Director, the Assistant Special Education Director, and the Director of the private school where the Child had been placed since February, 2025. The District's witnesses included the same three with no additional witnesses called.

## APPLICABLE LAW

The IDEA requires each public school district in Mississippi to have in effect policies and procedures to ensure that all children with disabilities residing in Mississippi in need of special education and related services are identified, located, and evaluated.<sup>3</sup> The District provided evidence of such policies and procedures.

The *State Policies and Procedures* requires a school district, prior to the initiation of special education and related services, to conduct a full and individual initial evaluation, in accordance with §300.305 (Additional Requirements for Evaluations and Reevaluations) and §300.306 (Determination of Eligibility) of the Procedures. Those evaluation procedures must include assessments addressing "specific areas of educational need" §300.304(c)(2). If, based on that evaluation, "...a determination is made that a child has a disability and needs special education and related services, an Individual Education Plan (IEP) must be developed for the child in accordance with §§300.320 through 300.324 and §300.306(c)(2). The IEP must be drafted by the school's IEP committee which is to include those persons specified in §300.321(a)

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<sup>3</sup> §300.111(a)(1). All sections (§) referenced are to the Mississippi *State Policies Regarding Children with Disabilities Under the Individuals with Disabilities Education Act Amendments of 2004* unless otherwise noted.

and must contain those items specified in §300.320. The District provided sufficient evidence these policies and procedures were implemented.

## **FACTS**

The Child is a ■-year-old ■ who has been diagnosed with Autism by the District and continually had behavioral issues. The IEP Committee made the decision that ■. would receive more intense support related to social skills development, as well as other behavioral issues at a private school with specialized training to address such needs. In February, 2025 ■. was enrolled in the private school and was making significant progress based on iReady progress monitoring and behavior logs kept. The District assigned the Assistant Director of Special Education to monitor the progress of ■. while ■ was at the private placement and provide training to faculty working with the Child. Based on progress reports and grades, the private school placement was working.<sup>4</sup>

After several attempted IEP meetings from October 24 to November 4, 2025, the IEP Committee reconvened at the private school to discuss reading and math goals. The Parent asked that the reading teacher attend the meeting, but the director of the school said the reading teacher had been excused from the meeting because of a physical altercation that had occurred between ■. and that teacher a few days prior. An argument ensued between the Parent and the director of the school when the parent insisted the reading teacher attend the meeting. After a heated discussion, the director ended the meeting. The following day, November 5, 2025, a letter was

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<sup>4</sup> Parent Exhibit 1, p. 5

sent to the District and the Parent saying [REDACTED] had been dismissed from the private school because [REDACTED] was “no longer a fit.”<sup>5</sup>

## DISCUSSION OF ISSUES

A hearing officer’s role is not to second guess state and local policy decisions, but to determine whether school officials have complied with applicable law, and if not, decide a proper remedy.<sup>6</sup> 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.”<sup>7</sup> That benefit must not be of a mere de minimis nature, but likely to result in progress, rather than “regression or trivial educational advancement.”<sup>8</sup>

The Parents, as challenger of the District’s actions in this case, has the burden of proof as to all issues presented in this matter.<sup>9</sup>

In deciding whether the requirements of the IDEA have been met, the first question to consider is whether the school District complied with the procedures of the IDEA.<sup>10</sup> Procedural violations, in and of themselves, do not amount to a denial of free appropriate public education (FAPE) unless the violations result in the loss of educational opportunity to the student or seriously infringe upon the Parent’s opportunity to participate in the provision of FAPE to the student.<sup>11</sup>

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<sup>5</sup> District Exhibit 13, pp. 315-316

<sup>6</sup> *Flour Bluff Independent School District v. Katherine M.* 91 F.3d 689.693 (5<sup>th</sup> Cir. 1996)

<sup>7</sup> *Houston Independent School District v. Bobby R.* 200 F.3<sup>rd</sup> 341 (5<sup>th</sup> Cir. 2000)

<sup>8</sup> *Cyprus Fairbanks Independent School District v. Michael F.*, 118 F. 3<sup>rd</sup> 245 (5<sup>th</sup> Cir. 1997)

<sup>9</sup> *Schaffer v. Weast*, 546, US 49, 51 (5<sup>th</sup> Cir. 2005)

<sup>10</sup> *Buster v. Corpus Christi Independent School District* (51 F. 3<sup>rd</sup> 490, 5<sup>th</sup> Cir. 1995).

<sup>11</sup> *Adam J. v. Keller Independent School District*, 328 F. 3<sup>d</sup> 804.808 (5<sup>th</sup> Cir. 2003; *State Policies*, §300.513.

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* (IDEA §§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.”

**ISSUE: Free Appropriate Public Education (FAPE) – The District has denied the Child FAPE by failing to provide him with sufficient and appropriate special education, related services, supplemental aids and services, and/or program modifications or support for school personnel to meet his unique needs resulting from his disability.**

The Parent’s primary complaint was FAPE had been denied because the Child had been dismissed from a private school where the Child had been placed and funded by the public school district. The IEP Committee determined the Child could be better served in the private school because of specialized training and programs designed to accommodate children diagnosed with autism. The Child was placed in the private school February, 2025 and was dismissed November, 2025. The Parent insisted the Child should be allowed to remain in the private school to satisfy the “Stay Put” provision of IDEA until such time a hearing could be held and the issues resolved.

In determining if a child is receiving a FAPE , the Fifth Circuit Court of Appeals established standards to be considered.<sup>12</sup> The Court held that FAPE is provided if: (1) the program is individualized on the basis of the student’s assessment and performance; (2) the program is administered in the least restrictive environment; (3) the services are provided in a coordinated and collaborative manner by key “stakeholders”; and (4) positive academic and non-academic benefits are demonstrated. Based on the testimony and evidence presented, the IEP was

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<sup>12</sup> *Cypress-Fairbanks Independent School District v. Michael F.* (5<sup>th</sup> Cir. 1997).

appropriate and reasonably calculated to enable the Child to make educational progress in the general education curriculum.<sup>13</sup> The IEP Committee determined the least restrictive environment was in the private school that provided smaller classroom settings, and unique programs designed to accommodate specific disabilities. The Parent was included along with general education and special education teachers in the development of the IEP, and the Student had made positive academic and non-academic progress.<sup>14</sup>

The private school dismissed the Child because of issues created by disagreements with ■■■ mom, not because of something done by the Child. The Child had been suspended one (1) day for pushing a faculty member. The Parent disagreed with the suspension as well as progress monitoring programs used in reading and math. The Parent also insisted the disability categories be extended to include ADHD/OHI. The District provided evidence that data did not support the addition of any other category than autism.<sup>15</sup> Following the private schools *Policy and Procedures*,<sup>16</sup> the administration of the private school determined it could no longer serve the Child because of tension between the school and the Parent. Evidence was presented indicating the Parent had signed acknowledging receipt of the handbook and policies.<sup>17</sup>

The ‘Stay Put’ provision of IDEA is intended to prevent services from being interrupted during a dispute related to placement, evaluations, punishment, etc. However, the private school has the authority to accept and/or dismiss students at will as is stated in their handbook. The hearing officer does not have the controlling oversight nor the jurisdiction to force a private school to take or reject any student. It is the District’s responsibility to ensure services are not

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<sup>13</sup> *C.G. v. Waller Independent School District*, 70 IDELR (5<sup>th</sup> Cir. 2017)

<sup>14</sup> Parent Exhibit 1, p. 5

<sup>15</sup> District Exhibit 8, p. 171

<sup>16</sup> District Exhibit 13, pp. 315-316 (Private School Handbook)

<sup>17</sup> District Exhibit 13, p. 316

interrupted when/if an outside agency can no longer provide those services. The District provided significant evidence that attempts were made immediately to hold an IEP meeting so that a change of placement would be done to ensure no gaps in services would occur.<sup>18</sup> The Parent refused to attend the IEP meetings and insisted the Child remain at the private school. The Child has not attended school since November 4, 2025 to the hearing date (January 6, 2026).

Also, the Complainant is seeking compensatory relief from the District in the form of payment for the period during which services were denied. The request included appropriate counseling services “to remediate the impact of the disruption,” and the cost of tutorial assistance in the areas of reading and math due to the lack of services being denied. No evidence was presented where counseling nor tutorial services had been provided during the time the Child has not been in school nor are those services scheduled in the future. No monetary amount was specified and no justification for the requested relief. Therefore, the request for compensatory relief is **denied**.

## **DECISION AND ORDER**

The Parent failed to meet the burden of proof that the District deprived [REDACTED] of FAPE and the claim is **dismissed with prejudice**. The District took immediate action in attempting to schedule an IEP meeting when notified that the Child could no longer attend the private school. The private school acted within its *Policies and Procedures* in determining the Child was being dismissed. Evidence and testimony were presented showing the District attempted to resolve the matter prior to the hearing when private school placement was no longer an option. During

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<sup>18</sup> District Exhibit 16, pp. 335-337 (email November 7, 2025)



resolution attempts, the District offered programs other than those that would be implemented in the private school. All attempted offers were rejected by the Parent.

The District is to set an IEP meeting immediately and resume providing services to [REDACTED] in the least restrictive environment as determined by the IEP Committee.

### **RIGHT TO APPEAL**

Each party may make an appeal of this decision to the appropriate court within 30 days of receipt of this Written Decision and Order. If no appeal is made, the decision is final and binding to both parties.

So ordered, this the 9<sup>th</sup> day of January, 2026.

*David P Daves*

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