

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 383,
Manhattan-Ogden Public Schools: 25FC383-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on September 20, 2025, by ----- on behalf of her child, ----- . In the remainder of this decision, ----- will be referred to as "the parent," and ----- will be referred to as "the student." An investigation of the complaint was undertaken by a complaint investigator on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on October 22, 2025. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the school district filed an appeal of the Complaint Report. Upon receipt of this appeal, an appeal committee was appointed, and it reviewed the original complaint, the Complaint Report, the district's notice of appeal, and the parent's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this Appeal Decision.

Preliminary Matters

A copy of the regulation regarding the filing of an appeal [K.A.R. 91-40-51(f)] was attached to the Complaint Report. That regulation states, in part, that: "Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect." Accordingly, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. When a party submits an appeal and makes statements in the notice of appeal without support, the Committee does not attempt to locate the missing support.

The appeal process is a review of the Complaint Report. The Appeal Committee does not conduct a separate investigation. The appeal committee's function will be to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

Discussion of Issues on Appeal from Complainant

The report identified one allegation:

Did the district appropriately respond to a parent request for an IEP for a child with a disability?

The investigator concluded that, pursuant to 34 C.F.R. 300.323(a), “this is a student with an IEP who lived within the jurisdiction of the district since 2018 and was homeschooled during those years. When the parent enrolled that child in public schools the district had an obligation to ensure that an IEP was in effect at the beginning of the school year for the student by implementing the last agreed upon IEP...” Report, p 10-11.

In its appeal, the district states that it was not obligated to have an IEP in place on the first day of school for this student because it was unaware of the existing IEP until September 10, 2024, and was in the process of conducting an initial evaluation. The district made this information available to the investigator (Report, p. 6). The Appeal Committee agrees with the district and, for the reasons specified herein, reverses the conclusion in the investigation report.

The investigator acknowledged that there is some ambiguity with regard to the application of 34 C.F.R. 300.323(a) to the situation where a district is uninformed that a resident of the district has an IEP developed by another Kansas district (Report, p. 10). However, the investigator concluded that the district had adequate notice that this student was a child with a disability with an active IEP. That conclusion was based on the following:

- “An email exchange among the parent, secondary special education coordinator and transition coordinator between April 23 and 24, 2024 documented the parent arranged for a tour of the high school, explained the student’s history, disabilities, and shared the April 19, 2024 neuropsychology evaluation (Report p. 6).”
- “An email from the district office to the transition coordinator on April 23, 2024 at 12:10 p.m. documents that the parent sent an email to the district describing that the student has ASD (moderately on the spectrum), dyslexia/dysgraphia and ADHD. The parent further stated that school testing was recently completed for IEP purposes (Report p. 6-7).”
- A neuropsychology report dated April 19, 2024 from a private evaluation center recorded the student had diagnoses of ASD Level 2, Dyslexia, dysgraphia, and ADHD (Report p. 7).
- An email from the parent to the transition coordinator on May 8, 2024 documented that the parent intended to enroll the student part-time in the district beginning during the 2024-2025 school year and the student would need special education services (Report p. 7).
- An Email from the mother to the transition coordinator documented that on August 6, 2024 a request was made for the student to walk the building and discuss credits/schedule and student needs. The parent asked for meetings to discuss special education services and implementation of the accommodations when the student began the school year (Report p. 7-8).
- An email on August 20, 2024 at 12:51 p.m. from a special education teacher to the parent clarified an error, “[student] is listed as a potential student on [teacher’s] caseload but is still ‘in referral.’” To which the parent responded, “[student] should already be considered eligible for SpEd, if that is the eligibility you’re talking about (Report p. 8).”

The complaint report (p. 8-9) noted that the school psychologist was unaware that the student had an IEP on the first day of school, stating, *"September 9, 2024 at 8:23 a.m. the school psychologist wrote the mother, 'this is the first I have heard of an existing IEP. There was no mention during our in person meeting prior to school starting nor have I seen this IEP. It is my understanding that he has been homeschooled and this is the first [student] has been in public school for quite some time...If there is a current IEP, please forward immediately."*

The complaint report (p. 9), adds:

On September 9, 2024 at 2:53 p.m. the school psychologist wrote in an email to the parent, stating, "The IEP from 2018 is no longer current and [student's] present level of performance and needs would likely not be that same. That is why time is needed to obtain data to determine needs." The parent responded, "I understand it's an old IEP, but when he is gone for a whole class period or, like today, the principal calls me telling me that a [classmate] complained that [student] put [student's] hands on [classmate] I expect you to move quicker to get some sort of oversight in place. I started this process in April to avoid this."

An email from the parent to the district on September 10, 2024 at 9:32 a.m. documented, "Please find attached [student's] IEP from [previous district]. Though it is old, it is not expired and I believe there are things that could have been put in place on the first day of school. It is now Day 19, which is an unreasonable time to have lapsed, especially when [student] is struggling and has since Day 4. I don't know if you attempted to get any records from [previous district], but you have had the academic testing done by [outside agency] evaluation since last spring."

This record documents that the parent first told school officials that the student had a previous IEP on September 9, 2024, and first gave school personnel a copy of her child's IEP on September 10, 2024. That is something that, if done in April of 2024 or at any time through the summer months, may have avoided the very delay that prompted this complaint. The information that actually was provided by the parent was sufficient to trigger the child find obligation of the district to conduct an initial evaluation. The district met this obligation by: (a) issuing a prior written notice proposing an initial evaluation; (b) obtaining parent consent for an initial evaluation; and (c) completing the initial evaluation within an expedited timeline.

What the record does not document is that the parent notified the district that the student had an IEP at any time during this long process. Instead, beginning in late April of 2024, and extending into the second week of September 2024, the parent notified the district that the student would be enrolling the following school year, had frequent conversations with school personnel, toured the district's high school, and told the district that the student had various disabilities and should receive special education services. In all of the frequent communications between the parent and school officials between April and mid-September there is no verified instance in which the parent notified the district that the student had an existing IEP. By withholding disclosure of this vital information of a student who has not attended any public school for approximately five years, and

has never attended school in this district, the Appeal Committee finds the district was without the requisite knowledge to have a legal duty to have an IEP in place on the first day of school for this student.

*In her response to the district's appeal, the parent states: *"On July 15, 2024, I submitted (student's) school registration. I responded "yes" to the question, "Has this student ever received any special education services." I also responded "yes" to the question, "Has this student previously been enrolled in a Kansas school?"* However, the parent provided no evidence to support this assertion and the investigator reported to the committee that she had not been informed of any such information. As stated in the "Preliminary Matters" portion of this decision, the appeal process is not a separate investigation. When the Committee is provided with unsupported information in an appeal, the Committee does attempt to locate the missing support.

Conclusion

For the reasons stated herein, the conclusion in the Complaint Report of a violation of 34 C.F.R. 300.323(a) is overturned. The Appeal Committee concludes that there is no failure to comply with the law that requires a school district to have an IEP in place on the first day of school. All corrective action required in the report is rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued on the 18th day of November, 2024.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward