

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 290
Ottawa Public Schools: 25FC290-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on October 30, 2025, by -----, on behalf of her child, ----- . In the remainder of this decision, ----- will be referred to as "the complainant," 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 November 29, 2024. That Complaint Report concluded that there were violations of special education statutes and regulations

Thereafter, the complainant filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed and it reviewed the original complaint, the Complaint Report, the complainant's notice of appeal, and the district'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.

No new issues will be decided by the Appeal Committee. 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 two issues:

ISSUE ONE: USD #290, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required special education and related services at the beginning of the 2024-25 school year.

ISSUE TWO: USD #290, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by not providing the required paraprofessional support on September 5, 2024.

The complainant appealed the conclusions of the investigator in two separate emails, both dated November 30, 2024. The first email stated in its entirety:

"Good morning. I'd like to appeal the decision about (the student's) case with USD 290. I'll be printing off pictures of conversations and sending them."

This communication did not identify what issue was being appealed, or why the complainant believed any fact or conclusion in the report to be incorrect

The complainant also asked for a copy of a photo showing the student at a Lego station. That picture was sent to the complainant by the investigator.

In the separate email, also dated November 30, 2024, the complainant sent a screen shot of undated face book messages and undated personal notes made by the complainant. This email did not identify what issue was being addressed nor how these messages and notes demonstrated an error in the findings and conclusions in the report.

Both issue one and issue two in the report alleged that the district failed to implement the student's IEP. Nothing in this appeal identifies or describes a failure to implement the student's IEP. Even if the student was briefly unsupervised on September 5, 2024, which is not supported by the preponderance of the evidence, that does not support a finding of a failure to implement the IEP because the IEP did not require paraprofessional support throughout the school day (See Report, p. 12).

The Appeal Committee has already noted, above, that Kansas regulations specify minimum requirements for appeal of a complaint report, namely: "Each notice shall **provide a detailed statement of the basis for alleging that the report is incorrect.**"

Again, the burden for supplying a sufficient basis for appeal is on the party submitting the appeal. The appeal process is a review of the Complaint Report. The Appeal Committee's function is to determine whether sufficient evidence exists to support the findings and conclusions in the Complaint Report.

With regard to this appeal, the Appeal Committee has reviewed all of the material submitted in this appeal, and has identified no basis to overturn any portion of the report. Therefore, the Appeal Committee finds that there is sufficient evidence to support the findings and conclusions related to Issues one and two in the report.

The Appeal Committee received an additional notice of appeal from the parent on December 12, 2024. The original complaint report was issued on November 29. The time in which to submit an appeal expired on December 10. Therefore, the Appeal Committee is prohibited by state regulation to consider this additional notice of appeal. However, the Appeal Committee notes that the additional notice of appeal contained nothing that would have altered the decision in this appeal because it did not comply with the state regulation, requiring each notice of appeal to include a: **“detailed statement of the basis for alleging that the report is incorrect.”**

The additional notice of appeal listed two grounds for appeal. The Appeal Committee has provided a brief statement explaining why this additional notice of appeal would have been found to be insufficient for each of the stated grounds for appeal:

1. *Factual Inaccuracies - The investigation report contains multiple misrepresentations of events - Statements attributed to parties are demonstrably incorrect - Critical context and evidence have been omitted or mischaracterized .* **The Appeal Committee notes that this “ground for appeal” does not state what statements in the report are incorrect, omitted or mis-characterized, nor how such alleged statements make any finding in the report incorrect.**
2. *Procedural Concerns - Failure to conduct a comprehensive and impartial investigation - Apparent bias in fact-finding process - Lack of due diligence in verifying submitted statements* **The Appeal Committee notes that this “ground for appeal” does not state how there was a failure to conduct a comprehensive and impartial investigation, what bias was used in the fact-finding process, nor what in the report supports the contention that there was a “Lack of due diligence in verifying submitted statements.”**

This decision does not mean the complainant has no remedy for the concerns expressed in this appeal. The complainant, for example, can request an IEP meeting and ask for the team to amend the student's IEP to include specific supports for which the investigator concluded were not addressed in the student's IEP, for example: use of appropriate diapers due to the student's allergy to LUVs diapers (Report, p. 9) and with regard to a bruise possibly occurring at an unsupervised time, but which the investigator found that “the IEP specifically does not require access to paraprofessional support throughout the school day.” (Report, p. 12).

Conclusion

For the reasons stated herein, the Complaint Report is sustained in full.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 19th day of December, 2024.

Appeal Committee

Crista Grimwood

Brian Dempsey

Mark Ward