

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 231
Gardner-Edgerton Public Schools: 25FC231-002

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on November 1, 2024,, 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 December 2, 2024. That Complaint Report concluded that there were no violations of special education statutes and regulations

Thereafter, the parent 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, and the complainant's notice of 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 complaint report identified eight separate issues. The appeal did not identify which issue(s) were being appealed. The appeal consisted entirely of two e-mails.

One e-mail, dated December 4, 2024, consisted entirely of this statement:

"clearly states that the November meeting was intended for finishing writing my child's IEP not for eligibility. This is one account of record that I have regarding the November partial consent."

The second is a copy of an email sent by a teacher to the parent, saying:

"I have scheduled a meeting on Wednesday, November 15, at 8:15 AM. This meeting will be to make sure we have addressed your concerns and finish writing your daughters individual education program (IEP). If you are planning to attend, please check the box, sign and date, and then return the form to me. If this date and time will not work for you, please let me know right away."

The Appeal Committee presumes this appeal is aimed at the decision in Issue 1. In that issue, the parent alleged that the district issued a prior written notice requesting consent for initiating an initial IEP before the initial IEP was developed by the IEP team. With regard to that issue, the investigator found that the district inadvertently checked the box next to the "Initial Services and Placement" section of the Prior Written Notice (PWN). The investigator justified this finding that the checked box was inadvertent because that PWN said the meeting was for considering the initial evaluation and there was nothing in that PWN that dealt with initial services (Report, p. 8). The provision of initial services, and request for consent for initial services, was first addressed in a PWN dated December 14, 2024 (Report, p. 8).

With these findings, the investigator concluded that the district held the November 15, 2024, meeting only to review the evaluation report and to determine initial eligibility, and not to request parent consent for initial services (Report p. 6). Nothing presented in this appeal provides any basis for concluding otherwise.

The Appeal Committee finds there is sufficient evidence to support the investigator's conclusions on this issue.

The Appeal Committee received an additional documents from the parent by e-mail on December 18, 2024. The original complaint report was issued on December 2, 2024. The time in which to submit an appeal expired on December 12. 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 describe how the complaint report was incorrect, and so 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 appeal information consisted of fifteen separate e-mails, none of which included any statement in them explaining to the Appeal Committee why the complaint report is incorrect.

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