In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No.
Auburn/Washburn Public Schools: 23FC437-004

DECISION OF THE APPEAL COMMITTEE

BACKGROUND

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This matter commenced with the filing of a complaint on February 23, 2023, by the complainants, on behalf of the student. The student has been privately placed in the home of the complainants. The mother is the student biological mother. In the remainder of the decision, the complainants will be referred to collectively as “the complainants”, Johnathan will be referred to as “the student”, and the mother will be referred to as “the mother”. An investigation of the complaint was undertaken by complaint investigators on behalf of the Special Education and Title Services Team at the Kansas State Department of Education.

Following that investigation, a Complaint Report, addressing the parent's allegations, was issued on March 27, 2023. That Complaint Report concluded that there was a violation of special education laws and regulations.

Thereafter, the complainants filed an appeal of the Complaint Report. Upon receipt of the appeal, an appeal committee was appointed, and it reviewed the original complaint filed by the complainant, the complaint report, the complainant's appeal and supporting documents 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.

**COMPLAINANT'S APPEAL**

The following issues in this complaint have been addressed by the Appeal Committee:

**ISSUE ONE:** The USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student's IEP, specifically by shortening [the student's] school day.

In response to this issue, the complainants dispute the following:

1. The complainants disagree, that, “The Bus Logs and Activity Reports show the exact time the student's ID was scanned prior to boarding the bus at the beginning and end of each day”, claiming that this statement is “completely FALSE”.

The complainants argue that this statement is implausible because the student does “NOT carry [the student's] ID each day and states, “we are with [the student] every morning when [the student and another youth] ride the bus and there is no scanning of student IDs that take place”. The Complainants seem to base their argument on their observations and understanding that the student does not carry a student ID, concluding from that, that this information “can be entered at any time by [the district] staff and are not real boarding times.” The district offers another explanation stating, “when students do not have their student ID, then bus drivers manually load students by tapping the “load” button under the student profile when they enter / exit the school bus.” Despite the conclusions drawn by the complainants the committee finds no evidence in the record to support the complainant's accusation that the district is inputting information at any time other than when the student is entering / exiting the bus. In this case, the investigator found, and the record shows, that the district provided the investigator with a screenshot of the student’s bus schedule that uniquely details the student's boarding times and include the hour, minute, and second in that the student boarded the bus (leaving the school heading home). The district acknowledged, and the record confirms, that on 15 days the student did leave class early and did miss service minutes due to busing, based on the student's recorded boarding data. Therefore, the committee affirms the investigator's finding that the student's ID was scanned and does not find a violation of state or federal laws with regard to this issue.
2. The complainants disagree with the investigator’s finding that 88 service minutes were missed for two reasons, stating “this is not an accurate account of the total instructional minutes missed in school for the 2022-2023 school year.”

The complainants argue that the total number of missed minutes found by the investigator is wrong because a) “[the student] has to leave [the student’s] class earlier than [the student’s] [boarding time] to make the bus”, and because b) the report that was submitted by the district, “is not 12 months’ worth of bussing data on [the student]”.

   a. Whether the student’s boarding time accurately reflects the student’s missed service minutes.

In the original complaint, the complainants argue that the student would have missed more than the investigator’s finding of 88 minutes because the student would have left class approximately 10 minutes prior to any time recorded on the district’s bus report. For example, the district reports that 3 minutes were missed on 1/12/23 based on the difference between the student’s “scanned” time boarding the bus (2:59:15 p.m.) and the official end of the student’s class (3:02 p.m.). The complainants argue that it is more likely that 13 minutes would have been missed, not 3 minutes. The committee agrees that the complainants’ explanation illustrates a plausible calculation, however, there is no evidence in the record to prove this assumption or the estimate of 10 extra missed minutes each time the student boarded the bus early. Further, the complainants offer no evidence to support their conclusions. The investigator found, and the record supports, that the total number of minutes missed, for the 2022-2023 school year, was based on precise data provided in the bus report, rounding up in the student’s favor.

Therefore, the committee does not find an error with the investigator’s finding of 88 missed service minutes for the 2022-2023 school year, based on the bus report.

   b. Whether the investigator erred in failing to investigate whether services minutes were missed, due to bussing, back a full twelve months.

In the original complaint, the complainants allege that the student missed service minutes for the past three academic years. However, the investigator found, and the committee agrees, that the investigator is “only authorized to investigate this allegation for the past twelve months.” In discussions between the committee and the investigator, the committee found that the investigation was contained to the 2022-2023 school year, specifically August 2022 – February 2023, a total of seven months.
The investigator, based on interviews with the district and the complainants, requested documentation on the bussing issue as it pertained to the 2022-2023 school year.

There is no evidence in the record that indicates that either party objected to the scope of the investigation, or evidence in the record to show that either party voluntarily provided the investigator with information outside the 2022-2023 school year.

However, the committee does find that the investigator should have investigated back a full 12 months. Although the committee notes that the investigator did specifically ask each party for information only pertaining to the 2022-2023 school year, and in verbal communication with the complainants, the complainants specifically focused on the 2022-2023 school year, federal and state law permits an investigator to investigate back a full twelve months. Furthermore, the committee does not find anything within the original complaint restricting the investigation to the 2022-2023 school year and the investigator acknowledges in her report that she is “authorized to investigate this allegation for the past twelve months”. Due to this, the committee finds that the investigator did err in limiting her investigation to the 2022-2023 school year and requires the district to determine whether the student missed any additional special education service minutes dating from August 2022, back to February 23, 2022. The district is directed to review the Student Activity Report/Bus Logs for this student from August 1, 2022 back to February 23, 2022 to determine the number of minutes (if any) the student boarded the bus before the bell indicating the end of the school day.

3. The complainants seem to disagree with the investigator’s finding that “the district may make scheduling changes as they would with any district student as long as they do not change the IEP services or goals” for two reasons.

Complainants argue that the district made changes, but were not permitted to make changes, to the student’s schedule for two reasons. First, the complainants argue that “the school will not transport [the student]...in the afternoon for the 18-21 transition program as part of [the student’s] IEP”. Next, the complainants argue, in reference to a January 5th IEP meeting pertaining to the transportation request, that they “have yet to receive that PWN”, a requirement when a service is denied. However, evidence in the record does not substantiate a violation of the student’s IEP nor does the record show that the complainants had a legal right to receive a PWN.

a. Whether the district would transport the student to the technical high school from the high school for the 2023-2024 school year.
The record shows that an IEP meeting, held on January 5th, 2023, did discuss possible transportation in the afternoon for “the 18-21 transition program” for the 2023-2024 school year. Complainants argue that, at the meeting, the district, “said they would not provide transportation to and from for the program”. The complainants note they want this transportation so that the student can be enrolled “next year [in a course] that was only offered in the morning at [the high school] AND attend [the technical school] in the afternoon”. The investigator found, and the record confirms, that “both Individual Education Programs in effect during the 2022-2023 school year (January 7, 2022 and January 5, 2023) show that the student receives special education transportation to and from home”. The investigator also found, and the record supports, that the district did not change the student’s IEP or goals, without an IEP meeting or consent from the educational decision maker. The committee notes that “each IEP of an exceptional child and any amendment or modification of an IEP shall be made by the child’s IEP team”. (K.S.A. 72-3429(b)(1)). There is nothing in the record to show that this did not occur. To the contrary, the record shows, that an IEP team meeting was held on January 5th, the team did discuss the transportation needs of the student, and that a PWN was issued to the parent of the student. While complainants may not agree with the decision of the IEP team, that, by itself, is not a violation of state or federal law.

Therefore, the committee does not find the investigator erred in her finding and there is not a violation of state and federal laws.

b. Whether the district failed to provide the complainants with a PWN following the January 5th IEP team meeting.

As stated above, the committee finds, and the record supports, that the district did provide a PWN to The acting advocates following the January 5th IEP meeting. The complainants argue that they “have yet to receive that PWN”. However, the record shows that the district properly refused to provide the complainants with the January 5th PWN following the IEP meeting. An email, dated February 1, 2023, exchanged between the district and the complainants explained that the district is “unable to provide [the complainants] with a Prior Written Notice for [the complainants] request as requests of this nature need to come directly from an educational decision maker (in this instance, [the student’s] biological parents)”. The investigator states, and the record confirms, that the complainant did not become the student’s educational decision maker until February 6, 2023, by way of an Educational Power of Attorney signed by the student (who is now 18). There is no indication, in the record, that the biological parents of the student did not receive a PWN following the IEP meeting. Further, the district has no obligation to provide the complainants with a PWN prior to the complainant becoming an educational
decision maker. Therefore, the committee finds that the investigator did not err in her finding and that there is not a violation of state or federal laws.

4. The complainants disagree with the investigators finding that “the district had investigated this in the same manner as used to discover the missed minutes for this student and did not discover this practice to be widespread.”

In their appeal, the complainants argue that “there are other students in the SPED busing who ride the same bus with [the student] and the student in #22FC437-001 (complaint filed by the complainant on behalf of another student) that are released early as well”. In conversations with the investigator, the committee found that during interviews, documented in the record, the investigator found that bussing, for the student in this complaint, and the 22FC437-001 student, are unique, per parent and complainant request. (The committee will not address the findings in complaint 22FC437-001 as it is outside the scope of this appeal.)

The investigator found, and the record shows that “interviews revealed that the practices of the students leaving early were likely unique to the student because [the student's] services are unique to [the student's] schedule this year.” In further conversation with the investigator, the committee found that, per complainant and parent request, the district had altered the student’s class and bus schedule, in conformity with the student’s IEP, and with consent from parents, so that bussing became unique to this student, meaning the student was accessing bussing that other SPED students were not. Additionally, the committee finds, and the record supports, that the district conducted a random sample investigation into other SPED student’s schedules to determine if transportation was affecting other student’s services. The random sampling shows that transportation was not affecting other students. Finally, the only documentation the complainants provide as evidence that the practice is widespread are emails between the complainants and the district regarding the student in formal complaint no. 22FC437-001, another student under complainant’s care, who also had a unique schedule. According to interviews, conducted by the investigator, the student in complaint 22FC437-001 had a similar unique bussing schedule as the student in this appeal, per complainant’s request. Therefore, based on interviews and other documentation in the record, the investigator found, and the committee agrees, that transportation was not affecting other students in the district. The committee finds that the investigator did not err in her finding and affirms the conclusion that there is not a violation of state or federal laws.
5. The complainants disagree with the investigators finding that “both the complaints, parent and district acknowledge that the district wanted the student to consider the Financial Literacy class instead of the Positive Support class.”

In response to this finding, the complainant states, “We did not acknowledge a consideration of the Financial Literacy class. We said [the student’s] schedule was changed and [the student] was put in that class”. The complainants further state that “the student’s IEP services, and schedule were changed, and the PBS (Positive Behavior Support) class was dropped by the school, prior to having any input from the IEP team and/or without a PWN of their intent to take PBS services out of [the student’s] IEP”. In this case the committee finds that the complainants confuse the making of a change to a student’s IEP, without consent or a PWN, with the mere suggestion that a change may be in the student’s best interest. While the committee agrees that if a student’s IEP and goals are changed, that an IEP meeting should be held and consent from the parent secured, however an IEP meeting is not required when only the possibility of these events arise. Following the complainant’s reasoning, a district would never be able to communicate with a parent about a student’s schedule outside a formal IEP meeting. This is too restrictive and not in accordance with the spirit of the law.

In this case, the investigator found, and the committee agrees, that “interview(s) and documentation show the student was not enrolled in the Financial Literacy class”. The record confirms that on January 2, 2023, the district communicated thoughts about the student’s second semester schedule, namely the possibility of adding a Financial Literacy class, as the district thought it may be beneficial to the student. The district further suggested that the student may not need the PBS class but instead could report to the counselor directly about how the student was doing following the student’s day at the technical center. The record shows that the email sent on January 2, 2023, requested “any thoughts” on this idea. There is nothing in the record that indicates the district took steps to unilaterally, and permanently change the student’s IEP or goals, that the district would not have properly held a meeting or gained consent prior to any change, or that the district forced the student to enroll in the class against the student’s wishes. The committee finds that the district was simply offering a suggestion for the student and sought student, parent, and complainant input. The committee notes that a mere suggestion about an alteration to a student’s schedule, even a suggested “trial” for a student, without making a unilateral decision, is not the same as changing a student’s IEP services or goals without consent or without a meeting.

The committee acknowledges, and the record shows, that the complainants had concerns about the district’s suggestion, and that they communicated those concerns to the district on January 3, 2023. The complainants stated to the district, “I know [the student] didn’t want this
and that his mother and myself didn't necessarily agree with this change either”, in reference to a change on the “parent portal” adding the Financial Literacy class. First, the committee finds that while the complainants were included as part of the student's IEP team, at that point, they were not the legal decision makers for the student. As such, the district may consider their concern, but was not obligated to act upon them. As noted earlier, the complainant did not become educational decision maker until February 6, 2023. Further, nothing in the record supports (outside the complainant saying so) that the mother (parent and the lawful decision maker) contacted the district refusing to consider the plan presented by the district or that the student refused the pro-offered “trial” of the Financial Literacy class (again, outside the complainant saying so). In contrast, the record reveals, that due to the district “knowing [the student’s] hesitancy, the district asked [the student] to attend the Financial Literacy class to see if [the student] wanted to take it”, creating a “trial” for the student. The record further shows the district responded to the complainant’s inquiry as to why the class was added to the student's schedule in the “parent portal”, stating that the district, “wanted [the student] to check out [the class] first to see what it was like” and indicating that the district had conversations with the student, asking the student to “see if [the student] thought [the class] would be a good fit for [the student] and if [the student] didn't really want it, [the student] didn't have to be there.” prior to any actual change taking place. The addition, of the Financial Literacy class, on January 3, 2023, in the “parent portal” does not, in itself, support a finding that the district unilaterally changed the student's IEP or goals. The committee finds that the schedule simply confirms the investigators finding, and the record, which shows a placeholder class was added during the timeframe the district was conducting the “trial”. Further, and most importantly, the investigator found, and the committee agrees, that the change on the district’s schedule system did not affect the student’s IEP or goals.

The committee notes that a violation of law only occurs when a violating action, in fact, occurs. The mere suggestion that a change to a student's IEP may be beneficial to a student, without further evidence that the change was made without consent, or a meeting, does not equal a violation of law. Therefore, the committee finds that the investigator did not err in finding that the student was not enrolled in the Financial Literacy class, that the student's IEP and goals were not changed without a meeting or consent, or that a PWN was improperly withheld from complainants and do not find a violation of state or federal laws.
ISSUE TWO: The USD #437, in violation of state and federal regulations implementing the individuals with Disabilities Act (IDEA), released the student’s personally identifiable information without written parent consent during the 2022-23 school year.

In response to the investigator’s finding that the district did not violate state or federal laws by sharing student data with the school board, the complainants dispute the following:

1. The complainants seem to disagree with the investigators finding that documents were shared, regarding the student, in “response to the 2nd Formal Written Complaint dated January 12, 2023”.

In response the complainants argue that the district’s School Board Policy KN, which requires “the superintendent to share personnel matters with members of the Board of Education in executive session as the school board is tasked with oversight of the school and district personnel”, does not apply to this student “because there was no Formal Written Complaint dated January 12, 2023, filed with [the district] on behalf of [the student]”.

The complainants seem to take issue with the investigators label of “2nd Formal Written Complaint dated January 12, 2023”. While the record does show the original complaint was filed by complainants on January 2, 2023, the record also shows that the complainants amended it on January 12, 2023. The committee finds the complainant’s argument that “there was no Formal Written Complaint dated January 12, 2023, filed with [the district] on behalf of [the student]” is too fine a distinction which does not change the investigator’s finding.

The complainants argue that “because [the student] was never a listed party as a complainant in the complaint” that the complaint “had absolutely nothing to do with [the student]”. The complainants seem to argue that the school board should not have been given access to the student’s records because the student was not listed as a party to the complaint. However, the investigator found, and the record shows, that the complainants directly linked the student to the complaint through written communications exchanged between the complainants and the district on January 12th and 13th. On January 12, 2023, the complainants sent an email to the district discussing the student (in this appeal), another student, and a district staff member (named in the January 12, 2023, complaint). Additionally, on January 13, 2023, the complainants sent an email to the district, stating, “the problem is not just with my two students at the high school”, and “we (the children, my wife, and I) experience harassment and retaliation...”. The committee finds that the student was directly involved in the complaint, by the complainants,
regardless of the whether the student was specifically named in the original January 2, 2023, complaint.

The complainants also argue that the school board did not have a “legitimate educational interest in knowing the content of [the student’s] educational records”. In review of the district’s policy, the committee notes that the Superintendent is required “to discuss personnel issues with members of the school board in executive session” when school officials, including school board members, have a “legitimate educational interest” which permits the board member “to review an educational record in order to fulfill his or her professional responsibility”. First, the committee will not use this appeal to comment on the district’s policy or how the district determines a “legitimate educational interest” as a district’s policy is determined by its local school board, and, unless the district fails to follow its own policies, creating a potential violation of special education state and federal law, the committee has no jurisdiction to overrule the district’s determination of “legitimate educational interest”. In this case, the investigator found, and the record confirms that the district did follow its own policy. Therefore, the committee affirms the investigator’s finding that the district did not violate state or federal laws by sharing student data with the school board.

2. The complainant argues that the student “is not an employee of [the district] and [the student’s] educational records should not have been discussed or provided to the board in executive session” and the district is not required “to share ALL student educational information.”.

In this case, the complainants argue that the release of the student's “special education information and disabilities” are not required under the district's policy. Complainants argue this, in part, because the student is “not an employee”, and because the district's “KN policy does not “require” the superintendent to share ALL student educational information.” The complainants label this section of their appeal as “Educational Records and FERPA”. First, whether the student is an employee is irrelevant to whether the district is permitted to share educational information with the school board.

Second, as stated above, the district may create its own policies and procedures. In this case, the record shows that the district’s policy permits data sharing when there is a “legitimate educational interest” to “school officials”, which includes school board members.

The investigator states, and the committee agrees, that, “parent consent must be obtained before personally identifiable information is disclosed to any other parties, other than officials of the public agency.” (34 C.F.R. 300.622). As discussed by the investigator in her report, school board members are officials of the school (public agency). Further, while the complainants
correctly point out that the Superintendent is not required to share “ALL information”, per the district policy, they fail to recognize that there is nothing in the policy which limits what records may be shared. Also, as noted above, the district and the complainant’s both acknowledge multiple emails and communications which occurred between the complainant and the district that did involve the student in the complainant’s formal complaint to the district. While a FERPA issue is outside the scope of this appeal, the committee does note that it finds nothing, in the record, which indicates the district did not have a “legitimate educational interest” or that it did not follow its own policy. Therefore, the committee finds that the district appropriately followed its policy, and the investigator did not err in her finding.

3. The complainants argue that the district did not follow their policy, noting that “the only time the school board gets involved and or MAY “need to know” ANYTHING about the documented response of the formal complaint and its findings from the Superintendent is if the complainant APPEALS the complaint determination results”.

In reference to this argument, the complainants point to the district’s policy which states, “Such investigator shall be informed of the obligation to maintain confidentiality of student records and shall report the findings of fact and recommend corrective action, if any, to the board in executive session.” This argument and quote regard the district’s policy on internal investigation procedures. The complainant’s argument, in this case, is ineffective because the policy, that the complainants point out, states that the board, in executive session, “shall report the findings” to the school board.

Essentially the complainants argue that the district followed its own policy. Regardless, this is not an issue presented in the original complaint, and as such, the committee will not address it now.

**ISSUE 3: Corrective Action**

The committee notes that Kansas regulation K.A.R. 91-40-51(f) permits the parties to a complaint to file an appeal of the findings and conclusions in a complaint report. This regulation does not authorize an appeal of corrective actions.

In the appeal, the complainants ask “that KSDE review in its entirety Complaints 22FC437-001, 23FC437-003, 23FC437-004 and the appeal responses for each.” The committee declines to do so. While the committee may occasionally adjust the corrective action of a final report on appeal, based on the findings of the committee, it will not unilaterally assess the corrective action, for all complaints filed by a single complainant, nor will it unilaterally create corrective
action. Each formal complaint may individually be appealed according to its own separate timeline. There is not a process to appeal beyond that.

Additionally, the complainant attempts to seek corrective action on a “possible 4th complaint” about another student. Complainants argue that “We have a 4th student in our home now, who we believe we could also file a complaint with KSDE for Child Find, IDEA, FAPE violation” and press the committee to “note” emails about this “4th student”. However, addressing possible violations that are not even yet filed in a formal complaint is well beyond the scope and jurisdiction of this appeal committee and will not be addressed. Therefore, the committee declines to make any finding on the issue of corrective action.

**ISSUE 4: Corrective Action Additions**

The complainants argue that “an outside Special Education and Child Find task force needs to come in and AUDIT the policies, programs, and practices of [the district].” Again, as stated above, the committee does not implement its own corrective action. Assigning corrective action is the responsibility, and at the discretion of, the investigator assigned to the formal complaint. Additionally, appointing a “task force” is outside the scope of this appeal and the committee. Therefore, the committee declines to make any findings on the issue of corrective action additions.

**CONCLUSION**

**ISSUE ONE:** The USD #437, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the student’s IEP, specifically by shortening the student’s school day.

1. The Appeal Committee concludes that the investigator did not err in finding that the student’s ID was scanned and does not find a violation of state or federal laws. No corrective action is required.
2. The Appeal Committee concludes that,
   a. The investigator did not err in substantiating a violation of federal and state law, finding that the student missed 88 service minutes from August 2022 – February 2023. The committee finds that the investigator appropriately applied corrective action, regarding the 2022-2023 school year, requiring the district to make up the missed 88 minutes.
b. The investigator did err in failing to investigate a full twelve months back from the date the complaint was filed.

3. The Appeal Committee concludes that the investigator did not err in finding that “the district may make scheduling changes as they would with any district student as long as they do not change the IEP services or goals”. Further, The Appeal Committee concludes that the investigator did not err in finding that the district conducted an IEP meeting, addressing transportation, and provided a PWN to the proper recipients. No corrective action is required.

4. The Appeal Committee concludes that the investigator did not err in finding that the district had investigated the bus schedule/possible missed services of other SPED students in the same manner as used to discover the missed minutes for this student and did not find this practice to be widespread. The committee does not find a violation of state and federal law. No corrective action is required.

5. The Appeal Committee concludes that the investigator did not err in finding that the complaints, parent and district acknowledged that the district wanted the student to consider the Financial Literacy class instead of the Positive Support class, or that the student was not enrolled in the Financial Literacy class, that the student's IEP and goals were not changed without a meeting or consent, or that a PWN was improperly withheld from complainants. The committee does not find a violation of state or federal laws. No corrective action is required.

**ISSUE TWO**: The USD #437, in violation of state and federal regulations implementing the individuals with Disabilities Act (IDEA), released the student’s personally identifiable information without written parent consent during the 2022-23 school year.

1. The Appeal Committee concludes that the investigator did not err in finding that there was not a violation of state or federal law when the district shared student data with the school board. The committee finds no violation of state and federal law. No corrective action of required.

2. The Appeal Committee concludes that the investigator did not err in finding that personally identifiable information may be disclosed to the school board when the board has a legitimate educational interest.

3. The Appeal Committee concludes that the complainant’s argument that the district did not follow their own policy regarding reporting complaint findings was not in the original complaint and will not be addressed. No corrective action required.
ISSUE 3: Corrective Action

1. The Appeal Committee concludes that the “Corrective Action” argued by the complainants is beyond the scope and jurisdiction of this appeal committee and will not be addressed. No corrective action is required.

ISSUE 4: Corrective Action Additions

1. The Appeal Committee concludes that the “Corrective Action Additions” argued by the complainants is beyond the scope and jurisdiction of this appeal committee and will not be addressed. No corrective action is required.

Required Action:

The Appeal Committee concludes that the investigator did err in failing to investigate a full twelve months back from the date the complaint was filed.

Within 15 calendar days of the date of this Appeal, USD #437 shall:

   a. Review the Student Activity Report/Bus Logs for this student from August 1, 2022, back to February 23, 2022, to determine the number of minutes (if any) the student boarded the bus before the bell indicating the end of the school day.

   b. The total number of missed service minutes derived from this process (if any) shall be: (a) reported to SETS and (b) added to the compensatory education required in corrective action 2.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 21st day in April, 2023.

APPEAL COMMITTEE:

Brian Dempsey: Assistant Director of Early Childhood, Special Education and Title Services,

Mark Ward: Attorney, Special Education and Title Services,

Ashley Niedzwiecki, Attorney, Special Education and Title Services.