

In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed March 12, 2024
Against Unified School District No. 229

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced on February 26, 2024, with the parent, xxxxxxxxxxxx, filing a complaint on behalf of his child, xxxxxxxxxxxx. This decision will refer to xxxxxxxxxxxx as "the parent," and xxxxxxxxxxxx as "the student." A complaint investigator completed the complaint investigation on behalf of the Kansas State Department of Education (KSDE) Special Education and Title Services team. Following the investigation, KSDE issued a complaint report, addressing the parent's allegations, on April 19, 2024. The complaint report concluded that there were no violations of special education law under three issues.

On April 20, 2024, the parent filed an appeal of the complaint report. Upon receiving the appeal, KSDE appointed an Appeal Committee, and it reviewed the parent's appeal, the supplemental information the parent provided for the appeal, and relevant portions of the complaint report. The Appeal Committee now issues this Appeal Decision.

Preliminary Matters

KSDE included the text of regulation regarding filing an appeal, K.A.R. 91-40-51(f), with the complaint report. That regulation states, in part, "Each notice [of appeal] 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 for the statement, the Appeal Committee does not attempt to locate the missing support.

The Appeal Committee does not decide new issues as part of the appeal. The Appeal Committee reviews the complaint report and determines whether the appealed findings or conclusions are correct. The Appeal Committee does not conduct a separate investigation. The Appeal Committee's function is to determine whether sufficient evidence exists to support the complaint report's appealed findings and conclusions.

Parents' Appeal

The parent raises one reason for alleging that the complaint investigation report is incorrect:

Issue

Did the investigator correctly conclude that USD #229 did not violate K.A.R. § 91-40-17(a)(2) to provide the parent with a ten-day notice of meeting for the parent and district staff's October 24, 2023, meeting because that meeting was not an IEP Team meeting?

Applicable Law

K.A.R. § 91-40-17(a)(2) requires districts to provide written notice "to the parents of any IEP team meeting at least 10 days in advance of the meeting." Regarding an appeal, K.A.R. § 91-40-51(f)(1) requires the party appealing to, "provide a detailed statement of the basis for alleging that the report is incorrect."

Relevant Facts

The parent's appeal states, in total, "I want to appeal the case, there are inconsistent issues in the report while the investigator has been written." (Email from Parent to KSDE Dispute Resolution Coordinator, Apr. 20, 2024.) Nine days later, the parent sent a second email stating he had, "attached appeal letter for issue two." (Email from Parent to KSDE Dispute Resolution Coordinator, Apr. 29, 2024.) In the attachment the parent copied and pasted portions of the complaint report. (Email Attachment from Parent to KSDE Dispute Resolution Coordinator, Apr. 29, 2024.) After the copying and pasting from the complaint report, the parent writes, "The parent during in an interview with the investigator said agreed [sic] with the school district to have a meeting on October 24, 2023 [sic] that will served [sic] as part of the EIP [sic] meeting and continue on October 26, 2023 while the meeting on October 26, 2023 [sic] was having issues with the connection via Zoom, The parent never received and signed a NOM for October 24 2023.

The paragraph above I, Omar Molina-Climaco, did not signed [sic] or received [sic] any document of NOM for the meeting occurred on October 24 2023 [sic]." (Email Attachment from Parent to KSDE Dispute Resolution Coordinator, Apr. 29, 2024.)

The appeal committee determines that the parent is alleging on appeal that he told the complaint investigator that he agreed with district staff to hold part of the IEP Team meeting on October 24 and to continue the remainder of the discussion to a second IEP Team meeting on October 26. The complaint report indicates that the parent stated to the complaint investigator that the October 24 meeting, "was a parent meeting" attended by himself and two other district staff members. (Complaint Report 11, Apr. 19, 2024.) As support for this statement, the complaint investigator pointed to the April 16, 2024, interview with the parent. (Complaint Report 2, 11, Apr. 19, 2024.) The complaint report states that the "district confirmed the [October 24] meeting was a parent meeting" and further confirmed that "any discussion about issues relating to the student's IEP was delayed until the October 26, 2023, IEP team meeting." (Complaint Report 11, Apr. 19, 2024.) As support for this statement, the complaint investigator pointed to the April 15, 2024,

interview with district staff. (Complaint Report 2, 11, Apr. 19, 2024.) The complaint investigator concludes that the district was not required to provide a notice of meeting for the October 24 meeting as this “meeting was not an IEP team meeting.” (Complaint Report 12, Apr. 19, 2024.)

On appeal, the parent is stating something different than the complaint investigator indicates the parent said during the interview that was part of the complaint investigation. The parent does not provide any additional information on appeal to support his contention that the October 24, 2023, meeting between him and two district staff members was an IEP Team meeting. The complaint investigator reviewed information from the October 26, 2023, IEP Team meeting including meeting notes, email correspondence between the district and the parent regarding the October 26, 2023, IEP Team meeting, the notice of meeting for the October 26, 2023, IEP Team meeting; and wrote in great detail about the October 26, 2023, IEP Team meeting in Issue One of the complaint report. (Complaint Report 3–9, Apr. 19, 2024.) The appeal committee finds that this information shows that the district is aware of its obligations around an IEP Team meeting and, the same information was not part of the investigation for the October 24, 2023, meeting which lends support to the complaint investigator’s conclusion that the October 24, 2023, meeting was not an IEP Team meeting.

Conclusion

Based on a review of the above, the Appeal Committee affirms the investigator’s finding that the district did not violate K.A.R. § 91-40-17(a)(2) as the complaint investigator sufficiently supported her conclusion that the October 24, 2023, meeting was not an IEP Team meeting and the parent did not provide a detailed statement of the basis for alleging that the report is incorrect that would support a different conclusion.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued May 10, 2024.

Appeal Committee

Brian Dempsey: Assistant Director of Special Education and Title Services

Dr. Crista Grimwood: Dispute Resolution Coordinator

Dean Zajic: Assistant Director of Special Education and Title Services