

BEFORE THE SPECIAL EDUCATION DUE PROCESS HEARING OFFICER

IN THE MATTER OF THE SPECIAL EDUCATION)

DUE PROCESS HEARING FOR STUDENT)

and)

USD 231 GARDNER/EDGERTON)

Case No. 25DP231-001

_____)

Pursuant to K.S.A. 72-2252 et seq.

FINAL ORDER

The above-captioned matter was set for Hearing at 10:00 AM Wednesday, May 21, 2025. Both USD 231 Gardner/Edgerton ("District") and ----- ("Parent") were notified of the hearing for ----- ("Student"). The District was represented by attorney Shellie Guin of Guin Mundorf LLC. Parent did not have legal counsel. Despite multiple attempts to discuss the matter with Parent by the Hearing Officer, Parent did not participate in the pre-hearing conference and refused to engage in a resolution meeting. Parent did not appear or participate in the Due Process Hearing.

ISSUE

Whether Student should be dismissed from special education because he no longer qualifies for services?

PROCEDURAL AND FACTUAL BACKGROUND

Student is a second grader who was initially eligible for special education and related services under the category of developmental delay. Student has been receiving special education services in the area of speech (articulation) since he was in preschool. During the 2024-2025 school year, Student received 20 minutes of speech services two days every week to work on two (2) Individualized Education Plan ("IEP") goals.

At the beginning of the 2024-2025 school year, Student was due for his periodic reevaluation and had met his goals, so the District initiated an evaluation to determine whether Student continued to qualify for services. On October 8, 2024, the team reviewed the reevaluation results and determined that Student no longer qualifies for special education services. The District issued Prior Written Notice (PWN) to Parent requesting consent to dismiss Student from special education.

Parent refused to provide consent and instead filed a formal complaint with the Kansas State Department of Education (KSDE). The investigation into Parent's formal complaint confirmed the District followed the appropriate procedure in determining that Student was no longer eligible for special education services. After issuance of KSDE's decision, Parent requested an Independent Education Evaluation (IEE), which the District granted. To date Parent has not provided the results of any IEE to the District.

The District filed the Due Process Complaint forming the basis for this matter. The District seeks an order from the Due Process Hearing Officer authorizing Student's dismissal from speech/language services consistent with the PWN issued on October 8, 2024.

FINDINGS OF FACT

1. Student was a second grader at Moonlight Elementary School during the 2024-2025 school year. Ex. 1.
2. Student has been receiving special education services in the area of speech (articulation) since he was in preschool. Ex. 6.
3. During the 2024-2025 school year, Student received direct speech/language services two (2) times a week for twenty (20) minutes in the special education setting. Ex. 1; Ex. 6; Ex. 19.
4. In his current Individualized Education Program ("IEP"), Student has the following two (2) measurable goals:

Goal 1 – When presented with pictures, Student will be able to produce /r/ (initial, /r/ blends, vocalic) in all positions of words in phrases at 80% accuracy on 2/3 data days by end of the IEP as measured by Running Records.

Goal 2 – When in connected speech, Student will be able to produce all speech sounds of the words at conversational level at 80% accuracy on 2/3 data days by end of the IEP as measured by Running Records.

Ex. 1.
5. On September 18, 2024, the District issued a PWN seeking parental consent to reevaluate Student. Ex. 3.
6. The purpose of the reevaluation was to provide relevant information to determine:
 - a. whether Student continued to be a child with an exceptionality;
 - b. the present levels of Student's academic achievement and related developmental needs;
 - c. whether Student continues to need special education and related services; and
 - d. whether any additions modifications to the special education and related services were needed to enable Student to meet the measurable annual goals set out in the IEP.Ex. 3.
7. The PWN identified Communicative Status as the only area of functioning requiring additional assessment or data collection. Ex. 3.
8. On September 24, 2024, Parent provided written consent for the District to proceed with the reevaluation. Ex. 3.
9. The District provided proper written notice of a meeting scheduled for October 8, 2024, to review the results of Student's reevaluation. Ex. 4.

10. The IEP team met on October 8, 2024. Parent participated in the meeting via telephone. The team reviewed the results of Student's recent reevaluation as well as his goal progress. Student's reevaluation included standardized assessment, therapy session and classroom data, and input from his classroom teacher. Ex. 6.
11. As of October 8, 2024, Student had met both of his IEP goals. Ex. 5.
12. Student was administered the Goldman-Fristoe Test of Articulation (GFTA-3) on October 1, 2024. The GFTA-3 is an individually administered standardized assessment used to measure speech sound abilities in the area of articulation. On the Sounds-in-Words subtest, Student received a standard score of 92, which places him in the 30th percentile when compared to same age peers. On the Sounds-in-Sentences subtest, he received a standard score of 102, which places him in the 55th percentile when compared to same age peers. Standard scores between 85-115 are considered to be within the average range. Ex. 6.
13. Student's language was informally screened using a second grade language screener on September 16, 2024, to provide information regarding his receptive and expressive language skills. He demonstrated the following skills: completing analogies, classifying words, defining simple words, answering WH-questions, providing a narrative with correct sequencing and grammar. Student easily engaged in conversation and shared a lot of information. During the conversation he used age appropriate vocabulary, grammar, and sentence structure. Ex. 6.
14. Student's teacher reported that he speaks clearly and is understood most of the time in conversation. He never avoids communicating in class. He follows directions easily, is able to retell a narrative, and uses appropriate grammar when speaking and writing. Ex. 6.
15. During the meeting, Parent expressed no concerns regarding Student's speech. Ex. 10.
16. For its Summary and Conclusions, the Evaluation Report notes:

"Based on the re-evaluation information, [Student] demonstrates developmentally appropriate articulation skills when compared to same age peers. He also demonstrates developmentally appropriate voice/fluency skills and language skills at this time. He no longer demonstrates a need for speech services to support him in the area of articulation skills in order to effectively participate in the general education classroom. It is proposed to dismiss his from speech services at this time."

Ex. 6.
17. Based on the reevaluation results and review of progress, the IEP team recommended Student's dismissal from special education services.
18. On October 8, 2024, the District issued a PWN notifying Parent that Student no longer qualified for special education and seeking Parent's consent to discontinue services. Ex. 8.
19. To date, Parent has refused to sign consent dismissing Student from special

education services. Ex. 8.

20. On October 15, 2024, Parent filed a formal complaint with the Kansas State Department of Education. Ex. 11.
21. On November 14, 2024, KSDE issued its final report addressing the two (2) issues identified in the formal complaint. Issue two read as follows: "Did the district follow correct procedures to discontinue special education services from the student services during the 2024-2025 school year?" Ex. 12.
22. With respect to Issue two, KSDE concluded as follows:

When a district or parent suspect that a child is no longer eligible for special education and related services a reevaluation must be conducted. If the IEP team then determines, using that reevaluation that the child is no longer a child with a disability the district must provide the parent prior written notice of the decision to discontinue services and obtain parent consent before discontinuing services. It is found that the district completed all of these steps. In this case parental consent was not obtained in response the prior written notice and therefore the services continue. Both the parent and district agree that the services are continuing. Therefore, it is not substantiated that USD #231 failed to follow correct procedures to discontinue special education services from the student services during the 2024-2025 school year.

Ex. 12.
23. KSDE found that the District did not violate 34 C.F.R. §300.503 with respect to its reevaluation and eligibility procedures, and no corrective action was required. Ex. 12.
24. On November 19, 2024, Parent emailed the District seeking an "out of district assessment," for Student, which the District treated as a request for an Independent Educational Evaluation (IEE). Ex. 14.
25. On November 26, 2024, the District issued a letter to Parent (1) granting a request for an IEE, (2) outlining the IEE parameters, (3) including a list of possible evaluators, and (4) enclosing a copy of Parent's procedural safeguards. Ex. 14.
26. Despite multiple follow up correspondence from the District, Parent has provided no information suggesting Student has undergone an IEE. Ex. 15.
27. Notwithstanding Student's reevaluation, progress report, and October 8, 2024, IEP meeting determining that he no longer qualifies for services, Student has continued to receive services pursuant to 34 C.F.R. §300.503. Ex. 19.
28. On April 7, 2025, the District requested a Special Education Due Process Hearing and provided notice to Parent. Ex. 20.
29. As of the date of the Hearing, Student had met all of his IEP goals and made good academic progress in his second grade class. Ex. 16; Ex. 17.
30. The District is requesting an order authorizing Student's dismissal from speech/language services consistent with the PWN issued on October 8, 2024. Ex. 20.

ARGUMENT AND AUTHORITIES

When school personnel suspect that a child is no longer eligible for special education and related services, a reevaluation must be conducted to determine if the child is no longer a child with an exceptionality. 34 C.F.R. § 300.305(e)(1); K.S.A. 72-3428(l)(1); K.A.R. 91-40-10(g)(1). If, after a reevaluation, the team determines that the student is no longer eligible for special education, it must provide Prior Written Notice informing the parent that the district is proposing to discontinue services. 34 C.F.R. §300.503(a)(1); K.S.A. 72-3430(b)(2); K.A.R. 91-40-26(a). The district must obtain written consent from the parent before discontinuing services. 34 C.F.R. §300.300(d)(2); K.S.A. 72-3430(b)(6); K.A.R. 91-40-27(a)(3). If the district is unable to obtain parental consent, then it may request a Due Process Hearing seeking an order authorizing the discontinuation of services. 34 C.F.R. § 300.507(a)(1); K.S.A. 3415(a)(1); K.A.R. 91-40-28(a).

ORDER

After considering the evidence and applying the applicable law and regulations, the Due Process Hearing Officer finds that the District suspected Student was no longer eligible for special education services and properly (1) conducted a reevaluation, (2) reviewed the results with the IEP team, (3) determined that Student was no longer eligible, and (4) issued a PWN to Parent proposing that Student be dismissed from services.

The District also requested Parent's consent, which was never provided. The District properly continued to provide Student services while it attempted to resolve any issues with Parent to obtain consent.

Pursuant to K.S.A. 72-3428(l)(1), 34 C.F.R. §300.503, and K.A.R. 91-40-28(a), and the information reviewed in his reevaluation, progress report, and provided by the District, Student is no longer eligible for speech/language services and is hereby dismissed from special education services.

IT IS SO ORDERED this 15th day of June, 2025.

s/ James G. Beasley

James G. Beasley, Hearing Officer

CERTIFICATE OF SERVICE

A true and correct copy was sent by electronic mail to the following:

Parent, Attorney for the District, KSDE

s/ James G. Beasley

James G. Beasley, Hearing Officer