In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 458,
Basehor-Linwood Public Schools: 27FC458-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on July 24, 2026, by ------- on behalf of her son, -------. 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 team at the Kansas State Department of Education. Following the investigation, a Complaint Report, addressing the allegations, was issued on August 26, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations

Thereafter, the district 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 parent, the Complaint Report, the district's notice of appeal, and the parent's response to the appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this final 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

The report identified three issues. This appeal relates only to Issue Two.

Issue Two was posed in the report as follows: "Was USD #458 required to reconvene the student's IEP Team when determining the agency to contract with during the 2026-27 school year to provide the special day school placement for the student?"

The facts related to this issue are not in dispute. The dispute is whether a failure to convene an IEP meeting as specified in a Prior Written Notice (PWN) is, by itself, a violation of law. The investigator concluded that it was a violation of law and the district appeals that conclusion.

In brief, the relevant facts are as follows:

1. A PWN dated April 13, 2026, with parent consent signed on April 16, 2026, documents that the IEP team determined that the student required a highly restrictive "Special Day School" placement. The PWN additionally noted that "The team will reconvene by the end of the school year to discuss next steps in the transition process to a special day school setting."
2. The Complainant and LEA agree that the IEP team was not reconvened between April 13, 2026 and August 7, 2026 to discuss any of the outside agency information.
3. The LEA staff stated to the Investigator that while the IEP Team collectively determines the Student's educational placement (Special Day School), the selection of the specific private agency or contracting facility (e.g., Lakemary Day School (preferred by the LEA) vs. Limitless ABA (preferred by the parent)) is an "administrative purchasing and contract function of the LEA, not an IEP team decision." The LEA'S position is that it had the latitude to select one agency over another without reconvening the team for team consensus or recommendation. (Report, Page 15).

The question presented in this appeal is whether the LEA's proposal in the April 13 PWN to reconvene the IEP team by the end of the school year was a legally binding commitment. If it was, the parent prevails. If it was not, the LEA prevails. The investigator concluded that it was a binding commitment and the failure to conduct an IEP meeting by the end of the school year was a violation of law.

The Appeal Committee has concluded that the proposal, stated in the April 13, 2026 PWN, to reconvene the IEP team "by the end of the school year" was not a legally binding commitment. The "placement" proposal of a "Special Day School" became a binding placement commitment when the parent gave consent for that placement. With that consent, the student's IEP changed and the LEA had a continuing responsibility to implement the student's IEP (provided that the parents made the student available for attendance).

On the other hand, the additional proposal in the PWN for the IEP team to meet again by the end of the school year was a team decision but it did not change the student's IEP. It remained only a

team proposal. The Appeal Committee finds no statute, regulation or court decision that supports the parent's assertion that any proposal in a PWN must be implemented regardless of changing circumstances when the proposal is only to meet again and is not a proposal for any service, any placement, or any change to an IEP. Such additional proposals in a PWN should be implemented simply because the parties have agreed to do so, but the law does not require it. As the LEA pointed out in its appeal, there may be times when such proposals become unreasonable (at least to some team members) due to a change in subsequent circumstances or events. In any event, the PWN proposal to meet again by the end of the school year remained a proposal, not a binding IEP commitment of services or placement.

Conclusion

For the reasons stated herein, the conclusion in Complaint Report regarding Issue Two is reversed. There is no violation of law with regard to Issue Two. Because all corrective action is related to Issue Two, all corrective action is rescinded.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 24th day of September, 2026.

Appeal Committee