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: ----------

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on July 24, 2026, 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 three allegations, was issued on August 26, 2026. That Complaint Report concluded that there was a violation of special education statutes and regulations with regard to only Issue Two

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 filed by the parent, the Complaint Report, the parent's notice of appeal, 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 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. All three issues are under appeal.

Issue One

Did USD #458 provide the parent with an appropriate Prior Written Notice on July 21, 2026 when refusing the parent's proposed agency to provide the special day school placement for the student during the 2026-27 school year?

In her appeal, under the heading: "Issue-by-issue Error:" the parent states:

Issue One — FAPE

The " no-violation conclusion should be reversed or modified because the Report treats designation of Lakemary as sufficient proof of FAPE without resolving whether Lakemary could provide the operative IEP in conformity with § 300.17. The later direct provider evidence materially undermines that premise."

The appeal committee does not recognize that description of Issue One. Issue One, as stated in the report, was whether the July 21, 2026 PWN was legally sufficient and that was the issue addressed in the report. The pertinent facts are as follows:

1. In an IEP and PWN, both dated April 13, 2026, the IEP team agreed to place the student in a Special Day School and the parent gave written consent to this proposal on April 16, 2026. (Report, finding 1, p. 8).
2. On May 21, 2026 the parent requested that the IEP Team consider Limitless ABA as the location of [Student's] Special Day School placement. Report, Parent Position, p. 7)
3. In a PWN, dated July 21, 2026, the LEA refused the request to use Limitless ABA as the location of the student's Special Day School placement (Report, Finding 6, p. 9).
4. The July 21, 2026 PWN included the following:
    A. A DESCRIPTION OF THE ACTION PROPOSED OR REFUSED:
    The district is refusing the parent's request for Limitless ABA to be the location for [the student's] special day school placement.
    B. EXPLANATION OF WHY THE ACTION IS PROPOSED OR REFUSED:
    The district carefully considered the parent's request and reviewed the information available regarding the parent proposed location. The district determined that Limitless ABA does not have structures in place to implement the IEP and transition [the student] back to a less restrictive school setting when appropriate.
    C. OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED:
    Limitless ABA was considered as a location for [the student's] special day school placement. This was rejected as the district determined that the location does not have structures in place to implement the IEP and transition [the student] back to a less restrictive school setting when appropriate.

D. DESCRIPTION OF THE DATA USED AS BASIS FOR THE PROPOSED OR REFUSED ACTION
(including each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action):
The district considered [the student's current evaluation data, current IEP, parent input and information shared from Limitless ABA.

E. OTHER FACTORS RELEVANT TO THE PROPOSAL OR REFUSAL (e.g. LRE, harmful effects):
Because the parent proposed location for [the student's] special day school placement has not previously operated as a special day school, the district considered whether sufficient information was available to determine that the program could implement [the student's IEP.
The proposed special day school location is an established special day school with experience providing the specialized instruction and related services required, monitoring and reporting progress toward the student's annual goals, and transitioning students back a less restrictive school setting.

Analysis

In her appeal of this issue, the parent adds that "the complaint report treats designation of Lakemary as sufficient proof of FAPE without resolving whether Lakemary could provide the operative IEP in conformity with § 300.17. That is not the concern presented in this Issue. This issue alleges that the July 21, 2026 PWN was not "appropriate" because it does not contain required information. The Appeal Committee finds that the July 21, 2026 PWN met the legal content requirements for the information to be provided in Section D of Prior Written Notices.

The conclusion in this issue is sustained.

Issue Two

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?

In this issue, the parent contends that "LEA reached a placement determination without reconvening the IEP Team to collectively review and determine the appropriate agency to provide the special day school placement for the student." The LEA's response to the investigator was that the IEP team determined that the student's placement would be changed to a special day school. Selecting the specific location of the day school was an administrative decision not an IEP team decision. (Report, p. 15). The investigator agreed and concluded that, "the LEA is not required to reconvene the IEP team to determine the agency to contract providing the special day school

placement; that decision lies fully with the LEA." (Report, p. 16). The Appeal Committee agrees with this analysis.

The investigator also concluded that the LEA was out of compliance because it did not reconvene the IEP team at the end of the school year to discuss next steps in the transition process to a special day school.

The parent appeals Issue Two stating:

Issue Two — IEP Implementation

The Report expressly finds that the April 13 IEP was not implemented and that the required services did not occur. Its sole basis for excusing that non-implementation is parental blocking. That causation finding should be reconsidered because later communications affirmatively requested implementation, operational prerequisites remained incomplete, and Lakemary stated that an IEP-listed service would be removed.

Analysis

The non-implementation portion of this issue related only to the IEP team's determination that it would meet again at the end of the school year to discuss the transition process to a special day school. Nothing in the IEP required the IEP team to reconsider the day school placement.

As to the parent's statement that "Lakemary stated that an IEP-listed service would be removed," the parent presented the following question to Lakemary: "How continuous 1:1 supervision would be provided if required by his IEP, including coverage during staff breaks or absences." The response to this question was, "Lakemary does not offer 1:1 staff service. If a student requires it, then our setting may not be appropriate for the student's needs at the moment. If appropriate, sometimes the 1:1 necessity can be removed from the IEP as it is applicable in the public-school setting, but not always necessary at Lakemary due to the structure of our program."

This exchange is not a basis for alleging that "Lakemary stated that an IEP-listed service would be removed." In the "Background Information" portion of the report, on pages 5 and 6, the investigator lists all of the IEP services that are to be provided at the special day school. Those services were:

Attendant care services in the general education setting for 50 minutes, 5x per week; Special education services in the special education setting for 370 minutes, 2x per week and 350 minutes, 3x per week; Speech/Language services in the special education setting for 20 minutes 2 days per week; Indirect speech/language therapy services one time per month for 20 minutes; Occupational Therapy services in the special education setting for 20 minutes, 1x per week, indirect services 20 minutes, 1 day every 4th week to address fine motor needs, and support for school personnel 20 minutes, 1 day every 4th week to provide staff training for sensory needs.

There is no reference to 1:1 supervision.

As for attendant care, that service was not removed. Attendant care services are non-instructional services that occur during non-instructional activities, such as at lunch and recess. They do not consist of one-to-one service. (See, "Meeting Notes," dated 9/22/26).

In its response to this appeal, the LEA states that Lakemary interpreted the term "attendant care" to mean a 1:1 service, even though that is not the definition of "attendant care" in the Kansas MIS data dictionary, nor required by the student's IEP. To meet this challenge, the LEA agreed to not report this service under the code for attendant care as long as Lakemary provided the required support during non-instructional minutes as described in the IEP. The LEA stated, "Lakemary has indicated clearly that they are able to provide the support during non-instructional minutes as listed in the IEP."

The IEP remains unchanged because no service was removed from the IEP. The only change was to use a different service code when submitting data for the LEA's MIS report.

The conclusion of the investigator is sustained on this issue.

Issue Three

Did USD #458 respond to the parent's request for an IEP Team meeting after July 21, 2026 to re-consider the agency chosen by the LEA to provide the student's special day school placement?

The investigation report stated:

It is found that the LEA was contacted by the Complainant on July 23, 2026 requesting an IEP team meeting. The LEA responded, proposing an IEP team meeting on July 24, 2026, however that date did not work for the Complainant and finally an IEP team meeting was arranged for August 7, 2026 with additional administrator meetings occurring sooner to discuss the issues and outside agency selection. Although the date of the IEP meeting on August 7, 2026 is beyond the investigation timeframe of this complaint, it was documented in the meeting minutes that the team members discussed the decision and reconsidered the decision (Report, p. 19).

The parent's appeal of this issue states:

Issue Three — Services to an IDEA-Eligible Student

The conclusion that attendance responsibility shifted to the parent depends on a legally sufficient and actually implementable offer of the operative IEP. The record does not establish that predicate without resolving the Lakemary service mismatch, provider participation, transition steps, contract status, and transportation.

The Appeal Committee is not able to reconcile how the above appeal statement relates to Issue three of this complaint. Nothing in this appeal statement contradicts the above cited portion of the

conclusion on this issue in the report, where the investigator concludes that, at the IEP meeting on August 7, 2026, "it was documented in the meeting minutes that the team members discussed and reconsidered the decision regarding the agency that would provide the services specified in the IEP (Report, p. 19)."

Sufficient evidence exists to support the findings and conclusions in the Complaint Report

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 15th day of October, 2026.

Appeal Committee