In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 412
Hoxie Public Schools: 27FC412-002

DECISION OF THE APPEAL COMMITTEE

This matter commenced with the filing of a complaint on August 31, 2026, by ---------- on behalf of their grandchild, ----------. In the remainder of this decision, ---------- will be referred to as "the grandparents," 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 September 28, 2026. That Complaint Report concluded that there was not a violation of special education statutes and regulations

Thereafter, the grandparents 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 grandparents, the Complaint Report, the grandparents' 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.

Parents' Appeal

Districts' Appeal

Discussion of Issues on Appeal

The report identified two issues:

1. ISSUE ONE: Did the Local Education Agency consider the guardians as the sole, exclusive and unrestricted educational decision-making and parental authority for the student according to IDEA and KS regulations?
2. ISSUE Two: Did the Local Education Agency provide the biological parent with access to school records/events including IEP meeting, notification of IEP meetings and the IEP document according to IDEA and KS regulations?

Both issues relate to whether the biological parents retained any of the parental rights of a parent after the student's grandparents obtained Letters of Guardianship.

The "Letters of Co-guardianship to Act Independently," were issued by the Sheridan County District Court, and state in full:

> *---------- and ---------- s, having been appointed and qualified as co-guardians of the person of A.W.C., a minor in need of a guardian, are hereby granted Letters of Co-guardianship with full power and authority, including all powers of guardians as set out in K.S.A. 59-3075 and amendments thereto. Further, as co-guardians they may act independently of each other and need not act in concert with the other co-guardian.*
>
> *IN WITNESS, I, the Judge of the District Court of Sheridan County, Kansas, have hereunto subscribed my name and affixed the seal of the Court.*
>
> *These Letters are effective as of the date and time shown on the electronic file stamp (February 6, 2025.*

Issue One

Did the Local Education Agency consider the guardians as the sole, exclusive and unrestricted educational decision-making and parental authority for the student according to IDEA and KS regulations?

The investigator found that the district was in compliance with this issue based on the following findings:

1. The February 6, 2026, letter of guardianship stated that the Guardians/Grandparents have full power and authority. The letter did not specifically state that they have sole educational decision making authority.
2. February 19, 2026 – Notice of Meeting for March 3, 2026, lists the Guardians/Grandparents and biological parents as the Legal Education Decision-Maker.
3. March 4, 2026, Notice of Meeting has the biological parents as well as the Guardians/Grandparents listed as the Legal Education Decision-Maker.
4. June 30, 2026 - Notice of Meeting has the biological parents as well as the Guardians/Grandparents listed as the Legal Education Decision-Maker.

5. August 20, 2026 – Notice of Meeting has Guardians/Grandparents listed as the Legal Education Decision-Maker and the biological parents listed as IEP members.

The pertinent regulatory provision is in 34 C.F.R. 300.30(b)(2), which says, in full:

> *(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to* ***act as the "parent"*** *of a child* ***or*** *to* ***make educational decisions*** *on behalf of a child, then such person or persons shall be determined to be* ***the "parent"*** *for purposes of this section.* (Emphasis added with bold and underlined print).

We added bold and underlined print for emphasis because this provision requires a careful reading. What it says is that a person "shall be determined to be the parent" under either of two circumstances: (1) if a court order identifies a person or persons "to act as the parent" or (2) if a court order authorizes the person or persons to make "educational decisions on behalf of a child." This regulation does not require that both criteria be met.

The order issued by the Sheridan County District Court clearly authorizes the grandparents to act as the parent of the student. Thus, this order is sufficient to transfer the right to make educational decisions for the child to the grandparents. More importantly for purposes of this appeal, this court order means that the remaining provision in this regulation, that the person who is identified as a person to act as the parent, "*shall be determined* ***to be the parent*** *for purposes of this section*."

Accordingly, this court order makes the grandparents the parents for the purposes of exercising parental rights under the IDEA. The term "the parents" cannot be logically interpreted to include anyone not named in the court order. Because of this court order, the biological parents no longer retain any parental rights under either federal or state laws or regulations regarding special education.

This means these biological parents have no individual right to any of the rights given to parents under either federal or state law regarding special education. However, that is not the end of the analysis. Under 34 C.F.R. 300.321(a)(6), a parent or LEA may invite "other individuals who have knowledge or special expertise regarding a child" to be included as part of the IEP team. The investigator notes this exception on page 5 of her report under the heading "Applicable Law."

On page 7 of the report, under the heading, "Local Education Agency Position," the investigator notes that:

> *The LEA "acknowledged that the biological parent continued to receive notice of IEP meetings and remained identified in portions of the student's educational records during the period addressed by the complaint. However, the LEA did not provide the biological parent with educational decision-making that conflicted with the authority granted to the grandparents by the court". The LEA's Director of Special Education*

> *sought guidance from Kansas Department of Education and Kansas Association of School Boards regarding the continued provision of PWNs to the biological parents and* ***invitations*** *to IEP meetings. Since the parental rights were not expressly terminated nor the parents prohibited from receiving notice or attending IEP meetings.* (Emphasis in bold print added).

With this additional information, it is clear that the LEA understood that the biological parents did not have an individual right to exercise any of the special education rights of a parent and sought guidance as to its own right to invite the biological parents to attend and be participating members of the student's IEP team. That right of the LEA would necessarily include providing the biological parents with notices of meetings, access to education records to the extent needed to participate as a member of the team, and attendance at IEP meetings.

The Appeal Committee finds nothing in 34 C.F.R. 300.30(b)(2) that limits the authority of LEAs under 34 C.F.R. 300.321(a)(6) to invite anyone with "knowledge" regarding the student to attend IEP meetings as a member of the team and to provide them with all information necessary to function as a member of the team.

The Appeal Committee concludes that, under the facts of this case, where the LEA invited the biological parents to attend meetings as a member of the IEP team, and not to provide consent or in any other way to act as a parent, a violation of law has not occurred.

The conclusion in the report that a violation of law is not substantiated is sustained.

Issue Two

> Did the Local Education Agency provide the biological parent with access to school records/events including IEP meeting, notification of IEP meetings and the IEP document according to IDEA and KS regulations?

On page 8 of the report, the investigator finds that the biological parents were sent a Notice of Meeting on June 20, 2026, after the April 24, 2026 court order and the mother attended the August 26, 2026, IEP meeting as a team member and participated through a Google meet.

This participation by the biological parents occurred even though a court order (Letters of Guardianship) authorizing the grandparents to act as the student's parents was in effect.

These facts are undisputed, but do not constitute a violation of law for the same reasons as stated in Issue One of this decision. The biological parents were invited by the LEA to attend IEP team meetings as members of the team. Providing the biological parents with notices of meetings and the IEP itself are necessary to enable the biological parents to effectively accept the invitation to participate as members of this student's IEP team. That includes providing personally identifiable and confidential student information (See Letter to Bieker, 102 LRP 9204 (OSEP 2000), stating that a school may invite someone with knowledge or special expertise to be a member of the IEP team,

even if it would not otherwise be permitted to disclose student information to that person under a FERPA exception).

The conclusion of the investigator that there was no failure to implement the legal requirements related to this issue is sustained.

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 23rd day of October, 2026.

Appeal Committee