

In the Matter of the Appeal of the Report  
Issued in Response to a Complaint Filed March 29, 2024  
Against Unified School District No. 261

## DECISION OF THE APPEAL COMMITTEE

### **Background**

The matter commenced with the filing of a complaint, by -----, on behalf of her child, -----, received on March 29, 2024. In the remainder of the decision, ----- will be referred to as “the parent”, or “the appellant”, and ----- will be referred to as “the student”. An investigation of the complaint was undertaken by complaint investigator, Tania Tong, on behalf of the Special Education and Title Services team at the Kansas State Department of Education. Following that investigation, a Final Complaint Report, addressing the parent’s allegations, was issued to both parties on May 1, 2024. The Final Complaint Report concluded there were no violations of special education laws and regulations.

Thereafter, the parent filed an appeal of the Final Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed. The Appeal Committee reviewed the parent’s appeal and supporting documents, the original complaint filed by the parent, the Final Complaint Report, and the district’s response to the appeal. The Appeal Committee 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**

The parent submits a 36-page appeal, inclusive of a copy of the parent’s 20-page original formal complaint. The remaining pages contain further arguments and a timeline of events from the start of the 2023-2024 school year to the filing of the appeal. The parent offers these arguments to re-

litigate the original issues rather than provide any detailed statement of the basis for alleging that the report is incorrect. Following the “timeline of events” section is a list of documents the district provided the investigator during the formal complaint investigation, most of which are not cited as evidence in the actual report, and the parent’s “rebuttal/thoughts” on each document. The “rebuttal/thoughts” again serve as an attempt to re-litigate the issues rather than provide a detailed statement of the basis for alleging that the report is incorrect.

In the introduction of the appeal, the parent includes a list of complaints about the investigator, noting that the complaint originally filed with KSDE, “was hacked apart, portioned, excluded, bundled and not reviewed in its entirety by Tania Tong”. While the parent conveys dissatisfaction with how the investigator organized or presumably reviewed documents, this statement falls short of the standard under K.A.R. 91-40-5(f) since it does not provide a detailed statement as to what in the final report is allegedly incorrect because of the investigator’s perceived methods.

The Appeal Committee does not conduct a separate investigation. The Appeal Committee only reviews the appeal, original complaint, and supporting documents to determine whether there is sufficient evidence to support the investigator’s finding. As such, the Appeal Committee will not make any new findings based on the arguments presented in the appeal.

The Appeal Committee takes this opportunity to emphasize the standard applied in an Appeal Committee’s review. Under K.A.R. 91-40-5(f), the Appeal Committee is tasked with reviewing the evidence to ensure there is sufficient evidence to support the investigator’s findings and conclusions. Stated another way, the preponderance of the evidence must support that the investigator’s finding is more likely than not. In this case, a review of the record shows the investigator considered 65 different pieces of evidence to form the basis of her findings and conclusions. The report also notes that, along with the 65 documents cited, the investigator reviewed numerous “additional documentation”. While the total number of documents reviewed does not definitively indicate the evidence is sufficient, the quality of the evidence may support a conclusion was more likely than not. Here, the documents cited, and reviewed, and noted in the report, include various PWNs provided to the parent, numerous email communications between the parent and the district, the student’s IEP, and interviews with various school personnel and the parent. These documents are also discussed under each of the six issues investigated. Based on a review of the documentation and interviews with the parties and witnesses, the investigator is in the best position to determine the credibility of the evidence.

A review of the report shows the investigator, in fact, considered all issues, for which KSDE possesses jurisdiction to investigate, as presented by the appellant in her original formal complaint. The following issues were appropriately excluded from the investigation, as KSDE does not possess jurisdiction in these matters:

- Complaint #6 – Whether threats and intimidation were used by the district to obtain parental consent to change the services offered in the student’s IEP.

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- Complaint #7 – Whether the district failed to act when staff allegedly violated state and federal special education laws and regulations.
- Complaint #8 – Whether the district failed to act in good faith by way of personnel reprimands.

Regardless, because the appellant failed to file an appeal providing a detailed statement of the basis for alleging the report is incorrect, the Appeal Committee will not determine whether sufficient evidence exists to support the findings and conclusions investigated in the complaint report.

This is the final decision on this matter. There is no further appeal. This Appeal decision is issued on this, the 28th day of May 2024.

**Appeal Committee**

Brian Dempsey; Assistant Director of Special Education and Title Services,  
H. Dean Zajic; Assistant Director of Special Education and Title Services,  
Dr. Crista Grimwood; Dispute Resolution Coordinator.