

In the Matter of the Appeal of the Report  
Issued in Response to a Complaint Filed  
Against Unified School District No. 357  
Belle Plaine Public Schools: 25FC357-001

## DECISION OF THE APPEAL COMMITTEE

### **Background**

This matter commenced with the filing of a complaint on November 22, 2025, by both the district and by -----, a social worker employed by the district, on behalf of -----, a student attending school in USD 357. In the remainder of this decision, ----- will be referred to as "the complainant," and ----- will be referred to as "the student." ----- is the student's mother and she will be referred to as the "parent" in this decision. It is noted that the parent provided written consent to share personally identifiable information regarding the student to the complainant on December 11, 2024, and, as such, a copy of this decision is being provided to the school district, the interlocal, the parent, and the complainant.

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 the allegations, was issued on January 2, 2025. That Complaint Report concluded that there were violations of special education statutes and regulations

Thereafter, the complainant and district filed an appeal of the Complaint Report. Upon receipt of the appeal, an Appeal Committee was appointed, and it reviewed the original complaint, the Complaint Report, and the complainant's notice of appeal. The Appeal Committee has reviewed the information provided in connection with this matter and now issues this 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 from Complainant**

The report identified two issues. The appeal relates only to Issue 2, which is: Did USD #357 and Interlocal #619, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), fail to follow appropriate disciplinary procedures for a student suspected of having a disability during the 2024-25 school year?

In its appeal, the complainant and district state:

*USD 357 appeals the decision from Issue Two. USD 357 has advocated for this student since August 20th, 2024 to receive vital special education services and provide adequate support from 619 for the student to be successful at USD 357. 619 failed to expedite the evaluation, and failed to identify the student as having a disability on numerous occasions. USD 357 provided adequate behavior data information to place the student for special education services. 619 has been less than cooperative with collaborating with 357, and the parents to ensure that this student received crucial interventions and support.*

In its appeal, the complainant and district do not refute the findings and conclusions in the report, except to the extent the findings and conclusions apply to the district. The essence of this appeal appears to be that the findings and conclusions should be directed solely to the Interlocal.

The Appeal Committee sustains the findings and conclusions in the report for the following reasons:

The disciplinary protections for children with disabilities under Kansas law are directed at school districts, not interlocals. K.A.R. 91-40-35 through 91-40-38, regarding the services to be provided during suspensions, state that the duty to provide such services belongs to the “agency.” The term “agency” is defined in K.A.R. 91-40-1(b) to mean “any **board** or state agency (emphasis added).” The term **board** is defined in K.A.R. 91-40-1(h) to mean “the board of education of any school district.” Accordingly, when it is required, the duty to provide special education and related services during suspensions falls entirely on the school district where the student is enrolled. In addition, K.S.A. 72-3436 specifies that it is the “school district” that is obligated to apply the disciplinary protections for students for whom the district has knowledge that the child is a child with a disability prior to identification.

K.S.A. 72-13,000 permits districts to enter into interlocal agreements. Paragraph (b) of the statute says: “Except as otherwise specifically provided in this subsection, any power or powers, privileges or authority exercised or capable of exercise by any school district of this state, or by any board of education thereof, may be **jointly exercised** pursuant to the provisions of a school district interlocal cooperation agreement (emphasis added).”

Although permitting the **joint exercise of powers or authority** by districts and interlocals, notably missing from this statute is any transfer of the legal responsibility for providing necessary services

under the Kansas Special Education for Exceptional Children Act. K.S.A. 72-3410(a)(2) states that, "Each **board** shall provide a free appropriate public education (FAPE) for exceptional children enrolled in the school district (emphasis added)." Thus, while districts are authorized by statute to enter into interlocal agreements for providing special education services, such agreements do not exempt districts from their duty under K.S.A. 72-3410(a)(2) to assure that all exceptional children that are enrolled in the district are provided with a FAPE.

Although not under appeal, the Appeal Committee applies the same analysis to the "child find" responsibilities of districts. The applicable statute, K.S.A. 72-3410(a)(1) says: "Each **board** shall adopt and implement procedures to assure that all exceptional children residing in the school district, including homeless children, foster care children and children enrolled in private schools, who are in need of special education and related services, are identified, located and evaluated (emphasis added). Nothing in K.S.A. 72-13,000, permitting districts to enter into interlocal agreements, exempts such districts from their child find and FAPE responsibilities under K.S.A. 72-3410.

When member districts of an interlocal or special education cooperative believe the interlocal or cooperative is in breach of the agreement, they may either provide the services themselves, negotiate, take legal action, or use the statutory process for partial or complete termination of the agreement. What member districts cannot do is to use an interlocal or cooperative agreement to absolve themselves of their statutory duties. In short, member districts cannot contract their way out of complying with their legal responsibilities to exceptional children.

The Appeal Committee has reviewed all of the material submitted in this appeal, and has identified no basis to overturn any portion of the report. Therefore, the Appeal Committee finds that there is sufficient evidence to support the findings and conclusions related to Issues one and two in the 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 22nd day of January, 2025.

## **Appeal Committee**

Crista Grimwood

Brian Dempsey

Mark Ward