In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 259
Wichita Public Schools: 27FC259-001

DECISION OF THE APPEAL COMMITTEE

Background

This matter commenced with the filing of a complaint on July 15, 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." Before the investigation of this complaint was completed the Local Education Agency (LEA) submitted a proposal to resolve the complaint, pursuant to 34 C.F.R. 300.152(a)(3). That proposal was accepted and the parties were notified of the acceptance on August 5, 2026.

Thereafter, the parent filed an appeal of the decision by the Special Education team at the Kansas State Department of Education (KSDE) to accept the proposal. 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

The authority for KSDE to conduct an appeal comes not from federal regulations but from Kansas Administrative Regulation 91-40-51(f). That regulation, in relevant part, states:

> *Any agency or complainant may appeal any of the findings or conclusions of a compliance report prepared by the special education section of the department by filing a written notice of appeal with the state commissioner of education. Each notice shall be filed within 10 days from the date of the report. Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect.*

This regulation permits an appeal "*of the findings or conclusions of a compliance report prepared by the special education section of the department.*" It is silent on whether an appeal may be made, as in this complaint, when there is no compliance report because the department accepted a proposal to resolve the complaint prior to completion of an investigation and issuance of a compliance report.

A literal reading of this regulation could support a conclusion that the appeal process is not available when there is no completed investigation or compliance report. The Appeal Committee, however, concludes, as a matter of first impression, that this regulation does permit an appeal of a

Kansas State Department of Education (KSDE) decision to accept a proposal to resolve a complaint. When a state education agency (SEA) accepts a resolution proposal in a complaint, it makes findings and conclusions. Those findings and conclusions are not related to findings and conclusions in a "compliance report" but the decision by the department to accept a proposal to resolve a complaint does include findings and conclusions that are subject to appeal.

It is those findings and conclusions in the department's decision to accept the proposal made by the LEA that are subject to this appeal. The appeal process is an appeal. It is not a separate investigation. It is limited to determining whether a decision related to the complaint is incorrect.

Preliminary Matters (2)

In this appeal, the complainant asserts that:

> *KSDE used the proposal acceptance process to avoid answering the questions this complaint required it to answer — including but not limited to whether USD 259 complied with the June 30, 2026 corrective action by July 15, 2026. KSDE did not answer those questions. Instead it accepted a district proposal for future performance, characterized that future performance as resolution, and closed the complaint before the evidence it had already scheduled to receive from the complainant was obtained.*

In essence, the parent asserts that when a complaint alleges that an LEA has failed to comply with a corrective action in a previous complaint, the resolution proposal option is not available and the complaint must be fully investigated. The complainant cites no support for this assertion and the Appeal Committee finds none in the governing regulation, K.A.R. 91-40-51(f).

The parents have filed an appeal of the SEA's decision to accept a resolution proposal. When an appeal is filed, the duty of the Appeal Committee, under this state regulation, is to determine whether the complaint report (or approval of a resolution proposal in this case) "is incorrect." That is the only question that is to be addressed on appeal. The appeal process does not contemplate an investigative process.

The complainant also asserts that 34 C.F.R. 300.152(a)(5) requires the appeal committee to "address each ground separately in its written decision." The Appeal Committee disagrees. 34 C.F.R. 300.152(a)(5) requires an initial complaint report to address "each allegation in the complaint." It does not require the initial report to address "each ground" related to each issue, although that is customary. However, this assertion particularly lacks merit in this situation where a state education agency (SEA) has accepted a proposal to resolve the complaint without an investigation, pursuant to 34 C.F.R. 300.152(a)(3).

In Letter to Lipsitt, the Office of Special Education Programs (OSEP) comments on the complaint resolution process, saying: "*the written decision must address each allegation in the complaint and must contain findings of fact and conclusions, as well as the reasons for the SEA's final determination*."

In this guidance letter OSEP is referring to the facts, conclusions and reasons for the final determination, that is for its decision to accept a resolution proposal. To interpret this guidance to require a full SEA investigation to determine the facts and draw a conclusion on the merits of each issue in the complaint would render the complaint resolution process a meaningless gesture that would undermine any incentive for a school district to attempt it or an SEA to accept it. What Letter to Lipsitt advises State Education Agencies to do with a complaint resolution proposal it will approve is to issue a written decision with findings of fact, conclusions and reasons for accepting the resolution proposal for each accepted proposal. The letter accepting the resolution proposal in this complaint fulfilled that responsibility.

Discussion of Issues on Appeal

The parent appeals the decision of the Special Education team at the Kansas State Department of Education (KSDE) to accept the proposal made by the LEA to resolve the one issue in this complaint on eleven separate "grounds," as follows:

Ground 1

> KSDE did not independently determine whether USD 259 complied with the June 30, 2026 corrective action by the July 15, 2026 deadline. The report accepted the district's proposal without making that determination.

When an SEA accepts a proposal to resolve a complaint it is not required by any statute or regulation to complete an investigation to determine whether the LEA complied with legal requirements. Typically, including in this complaint, one of the most important components of a successful proposal is to propose to perform corrective actions that would likely have been ordered by the complaint investigator had the investigation been completed and the investigator found non-compliance with law. The district's proposal met this criteria.

Ground 2

> The August 5 letter does not satisfy 34 C.F.R. § 300.152(a)(5) or the Lipsitt standard Ward cited. It does not address each allegation, does not contain independent findings of fact, does not contain conclusions derived from findings, and does not state the reasons for the SEA's final decision.

The August 5 letter issued by the department does address each allegation in the complaint. The complaint submitted by the parent identified one issue, namely that the district failed to "comply with the corrective action order issued by the KSDE Appeal Committee on June 30, 2026 in matter 26FC259-013." The August 5 letter issued by KSDE, states: "The issue presented in this complaint (27FC259-001) is that USD 259 has failed to comply with the corrective action ordered by the Kansas State Department of Education Appeal Committee in complaint No. 26FC259-013."

As for satisfying the "Lipsitt standard," the Appeal Committee addressed that assertion in the Preliminary Matters (1) portion of this decision and will not repeat it here.

Ground 3

> The report accepted future performance as resolution of a past deadline violation without making a finding on whether that violation occurred. The proposal-acceptance mechanism cannot erase a violation that had already occurred by the July 15 deadline.

This is essentially the same "ground" as presented in "Ground 1." The process in 34 C.F.R. 300.152(a)(3) for resolving a complaint contemplates that it will include "future performance as a resolution of a past" alleged violation of law. This option in the regulations does not require an SEA to proceed with a full investigation and make findings of fact and conclusions on whether a violation occurred. It does require findings and conclusions that are necessary to support the SEA's decision to accept a proposal to resolve a complaint. These were provided in the acceptance letter.

Ground 4

> The five required components of the June 30 corrective action — gathering, mutual agreement, SETS notification, five-day advance list, and production in all forms — were not completed before KSDE accepted the proposal. The report does not address any of the five components individually.

The LEA proposal adequately addressed all of the corrective actions, except timelines. SETS believed the requirement for meeting with the parents at a mutually agreed time and within a specific time period was a primary cause of the LEA's failure to timely implement the corrective action required by the decision of the Appeal Committee in 26FC259-013.

The appeal decision in 26FC259-013 required that "within 15 days of the date" of the appeal decision, the LEA was to "gather together all of this student's special education records, as that term is defined in 34 C.F.R. 300.613(a), and arrange for a mutually agreed upon time for the parents to come into a designated location to inspect and review those records." The Appeal decision was dated June 30, 2026. That meant the corrective action was to be completed by July 15, 2026. The LEA made meeting date offers within the specified timeline. However, the parties were not able to set a mutually agreed date for the file inspection. The parent filed this complaint on July 15, 2026, the final date in the timeline.

In its response to this appeal, the district asserts that it was put into an impossible situation because it was required, within 15-days to both (1) establish a date to meet with the parents and (2) to set a mutually agreed upon time to meet. The district proposed to meet with the parents on a date that was within the 15-day timeline set by the Appeal Committee's decision. The parents

rejected the district's proposal, leaving the district unable to comply with the timeline. The parents then filed this complaint on July 15, 2026.

When this complaint was filed, the Special Education team at the Kansas State Department of Education became aware that, by setting a specific date whereby the district must arrange a mutually agreed upon time and date to meet with the parents regarding the corrective action in the previous complaint, it had indeed put the district in a position that it could not control. A mutually agreed to time and place by a specific date requires both parties to cooperate in achieving that outcome. The district could not accomplish the required action alone.

For that reason, this resolution proposal was accepted without a timeline for completion. The parties should work together to complete the corrective actions at a time that is available to each. Reasonable cooperation is required from both parties.

Ground 5

> The district did not certify complete gathering. Three amended numbered lists and a fourth production 26 days past the deadline confirm the gathering was not complete when KSDE accepted the proposal.

A proposal to resolve a complaint is almost always a prospective plan to be accomplished in the future. A proposal is, therefore, not defective because it includes actions that will occur in the future.

Ground 6

> The "mutually agreed upon" requirement was never satisfied. August 20 was proposed by the district and accepted by KSDE without parent participation. The parent never agreed. The report's conclusion that the proposal satisfies the corrective action is incorrect on this specific, documented, objective point.

As indicated in the Appeal Committee's response to Ground 4, above, the Committee believed the "mutually agreed to" timeline in the report was a source of conflict that unnecessarily interfered with completion of the corrective action. For that reason, the Committee did not believe it was necessary for the district to propose a specific timeline in which to complete its proposal. Such a timeline would likely put the parties right back in the same situation that generated this complaint. The parties should work together to find a meeting time that is mutually agreed upon.

Ground 7

> The investigation was terminated before the complainant's scheduled interview. The report was based on an incomplete and one-sided record. 34 C.F.R. § 300.152(a)(4) requires the State to review all relevant information before making its determination. The complainant's account is relevant information. It was not obtained.

The requirements in 34 C.F.R. 300.152(a)(4) do not render useless the resolution process in (a)(3) of the same regulation. The resolution process is a valuable incentive for LEAs to make complete investigations unnecessary. That incentive needs (by law) to be available to any LEA facing a complaint. Such incentive is also valuable to parents as it assures that corrective action will occur whether or not the complaint allegations would have been substantiated. When an SEA approves a proposal made pursuant to 300.152(a)(3) it resolves the complaint and finds that there is no violation of law in exchange for a voluntary corrective action plan to adequately address the allegations made in a complaint.

Ground 8

KSDE failed to respond to the parent's July 15, 2026 written certification request and accepted the district's proposal without parent notice or participation, in violation of the parent's right to participate in the complaint process under 34 C.F.R. § 300.152.

Parents do not have any greater right to participate in the complaint process that is not also afforded to the general public. When a complaint is filed, the complainant, whether or not the complainant is the parent, has a right to participate in the complaint process by filing a complaint and, as described in 34 C.F.R. 300.152(a)(2), to have "the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint." Those provisions fully describe the extent of a parent's (or any other complainant's) right to participate in the complaint process. As stated previously, the Special Education team does not interpret the complaint resolution process described in 34 C.F.R. 300.152(a)(3) to require a full investigation with findings and conclusions regarding the issues in a complaint. Rather, the findings and conclusions required for an accepted resolution proposal are the findings and conclusions that support the SEAs approval of the proposed resolution.

Ground 9

The district's proposal was submitted on August 5, 2026 — seven days after the July 29, 2026 proposal deadline set by the investigator in the July 17, 2026 introduction letter for this complaint. The report does not address whether the district's proposal was timely. KSDE accepted an untimely proposal without any determination of its timeliness.

An investigator may set a timeline for submission of a resolution proposal in order to obtain a reasonable time in which to proceed with a complaint investigation if there is no proposal or if a proposal is rejected. Such a timeline does not negate a LEA's right to propose a resolution to a SEA or a SEA's obligation to consider any LEA proposal made pursuant to 34 C.F.R. 300.152(3). The regulation, itself, does not impose any timeline. The department has no obligation, or authority, to consider the timeliness of the proposal as long as the proposal has been submitted to it prior to the completion of an investigation report.

Ground 10

The report accepted the district's self-certification about records compliance. That self-certification is directly contradicted by subsequent productions: three amended numbered lists and a fourth production after the complaint was purportedly resolved. The report's factual basis was disproved by the district's own conduct after acceptance.

The LEA's proposal did not rest on a "self-certification about records compliance."
The proposal consisted of three separate provisions. The second provision was as follows:

> *The district commits to provide the parent with electronic copies of any of the education records remaining on the list that were not sent via email on July 23, 2026 (minus any copyrighted records) that the parent states she would like an additional copy of at the conclusion of the inspection and review when that transpires.*

This description includes all education records not already sent on a specific date, July 23, 2026, minus copyrighted materials, which will be available for inspection.

Ground 11

The report does not address whether a district proposal under 34 C.F.R. § 300.152(a)(3) can resolve an Appeal Committee corrective action order. The June 30 corrective action was ordered by an Appeal Committee convened under K.A.R. 91-40-51(f) — not issued as part of a routine complaint investigation. The report does not identify the legal authority under which a proposal to the investigator resolves an Appeal Committee order. That authority must be identified.

Federal regulations at 34 C.F.R. 300.151 require state education agencies (SEAs) to have procedures to resolve "any" complaint. This complaint alleged that the LEA failed to comply with the corrective action ordered by an Appeal Committee in a previous complaint. When this new complaint was filed, the resolution process in 34 C.F.R. 300.152(a)(3) automatically applied to this complaint as a matter of law. A parent filing a complaint alleging any violation of law, including an alleged failure of an LEA to comply with the order of an Appeal Committee, does not nullify an LEA's right to propose a resolution to that complaint or an SEA's obligation to consider such a proposal.

Conclusion

For the reasons stated herein, the decision of the special education team at KSDE to accept the resolution proposal of the LEA is sustained.

This is the final decision on this matter. There is no further appeal. This Appeal Decision is issued this 5th day of September, 2026.

Appeal Committee