In the Matter of the Appeal of the Report
Issued in Response to a Complaint Filed
Against Unified School District No. 469,
Lansing Public Schools: 27FC469-001

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 the allegations, was issued on August 23, 2026. That Complaint Report concluded that there were violations of special education statutes and regulations

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

One issue was raised on appeal:

ISSUE FIVE: Failing to implement the special education services, related services, accommodations, supports, and/or service minutes agreed upon by the IEP Team on April 21, 2026, and required by

the Student's IEP, thereby failing to provide the Student with a free appropriate public education (FAPE) in conformity with the IEP.

The complaint investigator concluded that there was no violation with regard to this issue because of the following findings:

"There was no documentation of an amended IEP."

"The evidence does not establish that the IEP Team formally amended the Student's IEP at the April 21, 2026, meeting or otherwise changed the Student's required services."

"Likewise, the PWN issued by the LEA reflects the LEA's position that the requested services involving outside therapists were not accepted."

With these factual findings, the investigator concluded as follows:

> *Accordingly, although the Complainant and LEA have differing understandings of what was discussed or proposed during the April 21 meeting, the evidence does not demonstrate that the Student had an amended IEP requiring the additional services identified by the Complainant. The Investigator therefore determined that the LEA implemented the Student's current IEP as written and did not fail to provide services required by the operative IEP. Therefore, the evidence does not support a finding that the LEA failed to implement the Student's IEP or denied the Student a FAPE in conformity with the IEP. LEA is complaint under 20 U.S.C. § 1412(a)(1)(A) and 34 C.F.R. §§ 300.17, 300.101, and 300.323(c).*

In her "Grounds for Appeal," the complainant states:

> *The report also recognizes evidence that some April changes were implemented near the end of the school year, including increased time at school and support from the outside BCBA. That partial implementation is relevant evidence that the April meeting produced more than a preliminary discussion and should be weighed with the parent's and provider's consistent recollections.*

The Appeal Committee agrees with the investigator's conclusion. Not only is there no evidence of such an amendment, the complainant does not even allege that an IEP amendment was developed at this meeting. Rather, the complainant appears to allege that events outside of the IEP process, such as limited participation of the BCBA near the end of the school year, is "relevant evidence" that "should be weighed with the parent's and provider's consistent recollections."

The Appeal Committee declines the invitation to look outside of the IEP to determine what the LEA must provide for a child with a disability because:

(1) *The term "Free Appropriate Public Education" is defined, in relevant part, as: "Special Education and Related Services that…are provided in conformity with an individualized education program (IEP)…" and*

(2) *The highest courts that have considered this question have uniformly held that, barring unusual circumstances (that do not appear in this complaint), it is unnecessary to consider information that is "extraneous" to the IEP."*

For example, one court determined that, "just because an LEA has provided a service or methodology (that is not specified in the IEP) in the past does not mean it must continue to do so," see John M. v. Bd. Of Ed. of Evanston Township High Sch., 107 LRP 53843 (7th Cir. 2007) and "Expanding the scope of the offer to include comments made during the IEP process undermines the important policies served by requiring a formal written IEP," see: Avjian v. Jerry D. Weast, Superintendent, Montgomery County Pub. Schs., 48 IDELR 61 (4th Cir. 2007). And see, Sytsema v. Academy Sch. Dist. No. 20, 538 F.3d 1306, 50 IDELR 213 (10th Cir. 2008) saying that the IEP is the written offer and the court will only consider the written IEP, not verbal offers made by the school district.

The facts in this case do not exactly match the facts in the cited cases, but the message in these cases applies to this complaint. A FAPE is the services specified in an IEP. There is nothing in this student's IEP that requires ABA therapy at school, nor any credible evidence that the student's IEP team intended to put such services in the student's IEP.

As for the parent's assertion that "The review should determine whether allowing the qualified provider is a reasonable and effective accommodation and whether denial unnecessarily limits [the student's] participation in the regular school environment," The Appeal Committee disagrees. The student was attending school for only a limited time by agreement of both parties and with the written consent of the parents, and not imposed on the student due to any unilateral decision of the district.

The conclusion of the investigator for Issue Five is sustained.

The parent added the following comment:

> *I am also deeply concerned about the State's handling and communication of the completed report. The Final Complaint Report is dated August 23, 2026, yet it was not uploaded to our portal. Had I not reached out to the State on September 2, 2026, it appears we would never have been notified that the report had been completed or provided access to it. A final investigative determination affecting [the student's] educational rights and the deadlines for further review should be communicated promptly and made available through the established portal. I ask that this failure in notice and document delivery also be acknowledged and addressed as part of the review of this matter.*

The Appeal Committee acknowledges this error. The Department of Education has developed a new program for assembling and storing complaint documents. This new program is being revised as deficiencies are identified. Any delay in notice of a completed complaint decision will not affect a complainant's right to submit an appeal of an adverse decision.

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 8th day of October, 2026.

Appeal Committee