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Tenth Circuit Court of Appeals

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March 11, 2022

Via Electronic Mail: mtupa@schoolworks.org

Megan Tupa
SchoolWorks
208 College Highway, Box 7
Southwick, Massachusetts 01077

Re: Rebuttal to State Review Panel Report

Dear Ms. Tupa:

Please allow this letter to serve as a reply to the SchoolWorks draft report we received on March 8, 2022. As you are aware, this matter involves complicated legal, educational, statutory, and constitutional issues. We had expected your report to contain less hyperbole, less hearsay, and grounded more in actual facts than is evident in the report. For example, the premise of the report suggests that “a thorough document review” was conducted. We both know that is not true as Superintendent Karla Loría collected documents relevant for the State Review Panel’s (“SRP”) review, but SRP members refused to take the binders offered by Superintendent Loría.

Further, the SRP report contains words or phrases that cannot be confirmed or quantified. For example, the very first sentence of the report states, “which included voices from across the district, its schools, and community...” The SRP report fails to indicate how many voices or whose voices were included. The SRP arrived late to the virtual meeting with parents and community on February 9, 2022, and failed to provide translation services to include the voices of the Spanish-speaking parents who make up the vast majority of the Adams 14 School District population. As a result, most of the parent simply logged off the virtual meeting.

Other words or phrases that are not quantifiable include: “many stakeholders,” “significant concerns,” or “multiple stakeholders.” Do these words indicate a quantifiable amount or is this mere conjecture from the SRP? For example, because three people may have complained about the work environment, is this “many” based on a factor of 10 or 100 people you interviewed? Without this information, the SRP report can hardly be deemed “factual” on any credible, professional level.

Also, the use of the word “district leadership” fails to discern between MGT or district administrators. This, obviously, is an important point. SRP is fully aware that MGT had managerial control over the District since June 15, 2019. Did SRP review all the emails and

correspondence from MGT related to its control over the District during this 2.5 year period? For example, since SRP is asserting that it did a “thorough document review,” did SRP overlook the October 23, 2021 email from Andre Wright (MGT Lead Partner) with Superintendent Loria where he reminded her of his control over the District involving finance and human resources? Or, how about the emails where Superintendent Loria was not able to have one-on-one meetings with District staff because MGT prohibited such meetings? What about Dr. Rhonda Haniford’s (CDE Assistant Commissioner) video-recorded oral presentation to the Adams 14 Board of Education alluding to the fact that Superintendent Loria was subservient to MGT? Did SRP incorporate these easily provable facts into its consideration? It seems as though that as direct evidence exists that neither the Adams 14 Board nor Superintendent Loria had control over the District for 2.5 years, SRP’s claims that the Adams 14 Board’s or Superintendent Loria’s leadership is the root cause of the District’s woes can only be seen as intentionally false.

In fact, the SRP report fails to mention the very basic fact that the Adams 14 Board of Education and Superintendent Loria did not have leadership or managerial control over the District until February 4, 2022 when MGT voluntarily left the District. This particular fact can be verified through an email sent by Julie Tolleson, attorney for the State Board of Education, to Adams 14’s and MGT’s respective counsel. Did SRP’s “thorough review” include this email communication? If it did not, then the conclusions of the SRP report are entirely suspect. Do SRP members believe they can disregard this evidence directly from a First Assistant Attorney General in the Colorado Attorney General’s office?

Based on the well-documented evidence, reasonable people can only conclude that criticisms of the “district’s leadership” and other failures squarely fall on MGT’s disastrous management of the District since June 15, 2019. This statement is not without support. Because SRP claims it conducted a “thorough document review,” then SRP must be aware that in August 2021, an external evaluation was performed, with CDE’s approval, which uncovered serious and extensive performance deficiencies by MGT/A14SS, broadly falling within six categories:

- 1) The Lead Partner’s work was reactionary and ad hoc without any overarching strategic plan;
- 2) The Lead Partner acted as an advisor rather than a manager;
- 3) The Lead Partner failed to provide staff experienced in turnaround or to maintain much continuity;
- 4) The Lead Partner failed to ensure adequate staffing in the District or to appropriately supervise District employees;
- 5) The Lead Partner did not properly oversee District expenditures and appeared to have grossly misused District resources on purchases that should have been covered by its significant fees; and
- 6) Available student performance data indicated the Lead Partner was not effective in improving student learning.

These facts are grounded in documented evidence, but curiously are missing from the SRP report, and we have to wonder why. Or, how about facts surrounding a forensic audit conducted involving MGT’s use of public dollars? The SRP report neglects to provide any

reference to this issue. As you know, the forensic audit revealed the following concerning facts about MGT's financial management of public dollars:

- The contracts provided to us for eight (8) individual contractors or vendors, contained Scope of Work descriptions, that seemed similar to work A14SS was required to perform according to the Scope of Work described in Annex No. 1 of the contract between A14SS and Adams 14.
- Adams 14 paid fees to these eight (8) vendors totaling \$495,486.18.
- Based on our examination, we recommend Adams 14 review and examine the contracts from business, operational, and legal perspectives to make a final determination regarding similarities in scope of services/work.

This forensic audit was released to CDE and the Colorado Attorney General's office before this SRP report was completed. Yet, there is no mention of the forensic audit and its concerning findings in the SRP report related to financial matters. Why is that? These are facts, this is documented evidence, yet, the SRP report does not include any information related to either finding, which draws attention to MGT's mismanagement of the District.

The SRP report makes seriously adverse recommendations against the District such as shutting down schools, particularly Adams City High School, with the justification that current leadership is not adequate. How can this be true when the wealth of evidence shows that MGT controlled this District for 2.5 years. Again, we have documented evidence from the Colorado Attorney General's office verifying that control over the District was not returned to the Adams 14 Board or Superintendent Loria until February 4, 2022, which was one week before SRP's site visit.

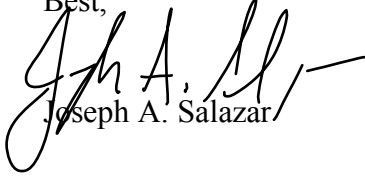
Surely, SchoolWorks must know that its report will be subject to judicial scrutiny, and that an examination will be done concerning whether SRP members have met their obligations under the Code of Conduct for SRP Members. The Code of Conduct requires SRP Members to be objective, to base recommendations on evidence, not opinion, and to refrain from introducing "hearsay" as evidence. The Code of Conduct also requires SRP members to consider the "full range of evidence presented to the team and in the absence of external influences." As will be indicated in the attached table, marked as "Attachment A," this SRP Recommendation Form wholly misses the mark.

Similarly, the State Review Panel District Site Visit Feedback Form 2021-2022 suffers from the same deficiencies as the State Review Panel Recommendation Form. Nowhere in the documents does SRP distinguish between the MGT's role in the district for 2.5 years and the Adams 14 Board's and Superintendent Loria's roles since February 4, 2022. Truly, it is almost as if SchoolWorks is seeking to create its own liability through its lack of honesty and defamatory statements.

In sum, SRP is mandated by its own procedures to be objective, and to engage in a full review of relevant documents. It is painfully obvious SRP fails to be objective, and it has not conducted a full review of documentation. We encourage SRP to seriously reconsider its report, and incorporate the recommended changes. As a note, Adams 14 will submit this letter and

corresponding table to the State Board of Education in order to create a record regarding our recommended changes and to record our objections to many of the statements contained in the report. Should you have any questions or comments, please feel free to contact me at your earliest convenience at (303) 895-7044. Thank you for your time and attention in this matter.

Best,

A handwritten signature in black ink, appearing to read "Joseph A. Salazar". The signature is stylized and cursive, with a long horizontal stroke extending to the right from the end of the name.

Joseph A. Salazar

ATTACHMENT A

Page Number and Text from Report (include report title)	Factual Correction Requested	Evidence to Support Factual Correction (required)
<p>P. 1 (SRP Recommendation Form)</p>	<p>Megan Tupa’s name is missing from the State Review Panelists. Add her name to the SRP Panelist list.</p> <p>Change the word “thorough” in the first sentence of the narrative to “partial.”</p> <p>The report should read, “This is evidence of lack of leadership capacity and stability exhibited by the management partner, which has negatively affected student achievement gains.”</p> <p>Last sentence of the third paragraph should read, “During the management partner’s tenure, Adams City High School (ACHS) performed at a low level and the management partner failed to prioritize a plan for the school and its students.” Take out the remaining comments as they are conclusory and conjecture.</p> <p>Fourth paragraph should read, “The SRP gave significant consideration to closure of one-or-more of the district’s schools but recognizes there are many challenges to closing one school, and potentially increased challenges to closing more-than-one-school.” The remaining sentence is untrue as the SRP Panel cannot make</p>	<p>Scheduling calendars indicate that Ms. Tupa was an SRP panelist. Individuals present also will testify that Ms. Tupa was present as a panelist.</p> <p>The entire SRP Recommendation Form fails to reference documents Superintendent Karla Loria attempted to give to the SRP Panelists, the August 2021 external evaluation authorized by CDE, or the November 2021 forensic audit.</p> <p>August 2021 external evaluation authorized by CDE; Code of Conduct for SRP Members requiring an objective review and evaluation of documents; February 4, 2022 email from the State Board of Education’s attorney confirming that the Adams 14 Board and the Superintendent will have their authority reinstated.</p> <p>The SRP reports supports that the SRP members did not consider the August 2021 external evaluation authorized by CDE, or November 2021 forensic audit, the February 4, 2022 email, or other emails demonstrating MGT exerted</p>

	<p>this conclusion as the Adams 14 Board and Superintendent have not had managerial control over the District for 2.5 years. Thus, the SRP cannot point to any objective evidence showing that this Adams 14 Board and this Superintendent are not adequate leaders.</p> <p>Fifth paragraph, first sentence should read, “As the SRP considered some documents...”</p> <p>Fifth paragraph, ending of first sentence also should read, “...are evidence supporting the termination of MGT as the management partner.”</p> <p>Fifth paragraph, second sentence should have the following words removed “many,” “some,” and “significant” as it refers to stakeholders and concerns.</p> <p>In the same paragraph and sentence, it should read, “Although some stakeholders reported they would like to see current leadership have an opportunity to continue to lead in the future, the current district leadership had its authority reinstated by the State Board on February 4, 2022. It would be appropriate to allow the district’s leadership an opportunity to move forward given the apparent problems left by MGT as indicated in various audits.”</p>	<p>control over the District until February 2, 2022.</p> <p>August 2021 external evaluation authorized by CDE; November 2021 forensic audit; January 11, 2022 Adams 14 Board Resolution terminating the MGT contract.</p> <p>February 4, 2022 email from the State Board of Education’s attorney confirming that the Adams 14 Board and the Superintendent will have their authority reinstated; Code of Conduct for SRP Members requires an objective review and evaluation of documents.</p> <p>August 2021 external evaluation authorized by CDE; November 2021 forensic audit; October 23, 2021 email from Andre Wright to Superintendent Loria.</p> <p>August 2021 external evaluation authorized by CDE.</p> <p>August 2021 external evaluation authorized by CDE; November 2021 forensic audit; January 11, 2022 Adams 14 Board Resolution terminating the MGT contract.</p>
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	<p>In the same paragraph, third sentence should read, “Under MGT’s managerial control, the district continued a culture of fear and retaliation, the lack of financial and human resources practice, and the overall limited improvement in student achievement and growth over many years, as indicated in external audits and evaluations.”</p> <p>The last sentence in paragraph five should read, “Although the SRP observed schools who are beginning to lead improvement efforts and desire stability, under MGT, and as indicated in the August 2021 external evaluation, the lack of district support structures and resources, as well as the lack of trust and communication, make it challenging for school leaders to lead turnaround work well.”</p> <p>The sixth paragraph, should end at the first sentence. The SRP has not provided any objective evidence that closure of Adams City High School is necessary, particularly as MGT mismanagement has now been removed.</p>	
P.2 (SRP Recommendation Form)	The third sentence of the second paragraph should read, “Although some stakeholders reported they would like to	The SRP Panel should quantify what “many” or “some” means in its report

	<p>see current leadership have an opportunity to continue to lead in the future, the current district leadership had its authority reinstated by the State Board on February 4, 2022. It would be appropriate to allow the district’s leadership an opportunity to move forward given the apparent problems left by MGT as indicated in various audits and evaluations.”</p> <p>In the sixth sentence of the second paragraph should read, “Under MGT’s managerial control, the district continued a culture of fear and retaliation, the lack of financial and human resources practice, and the overall limited improvement in student achievement and growth over many years, as indicated in external audits and evaluations.”</p> <p>The last sentence of the second paragraph should be removed as MGT has been removed from the district, and the Adams 14 Board and Superintendent had their authority restored on February 4, 2022.</p>	<p>based on its obligation to be objective, according to the Code of Conduct.</p> <p>August 2021 external evaluation authorized by CDE; November 2021 forensic audit; January 11, 2022 Adams 14 Board Resolution terminating the MGT contract; February 4, 2022 email from the State Board of Education’s attorney confirming that the Adams 14 Board and the Superintendent will have their authority reinstated.</p>
P.3 (SRP Recommendation Form)	<p>The entire first paragraph should be removed as the SRP has no evidence that closing Adams City High School will have the desired outcome as indicated in this sentence.</p>	<p>Code of Conduct for SRP Members requires an objective review and evaluation of documents.</p> <p>February 4, 2022 email from the State Board of Education’s attorney confirming that the Adams 14 Board and the</p>

	<p>The second sentence of the second paragraph should be removed. Exactly what does SRP know about the district’s leadership capacity as the Adams 14 Board and Superintendent have not had managerial control over the district until February 4, 2022. This statement from the SRP is not remotely objective based on the volume of evidence to the contrary.</p> <p>The third sentence of the third paragraph should read, “MGT failed to take advantage of these grants, nor did the district, under MGT, have sound financial structures and practices to support innovation work. With the reinstatement of authority to the Adams 14 Board and Superintendent, it would be prudent to allow them to establish the foundation for potential innovation status.”</p> <p>The last sentence of the third paragraph should read, “However, due to lack of consistent and high functioning leadership structures under MGT....”</p> <p>The first sentence of paragraph four should read, “District leadership under MGT has not shown the capacity to write a strategic plan or gain community support despite having 2.5 years to make these gains. However, with the reinstatement of authority to the Adams</p>	<p>Superintendent will have their authority reinstated; Code of Conduct for SRP Members requires an objective review and evaluation of documents.</p> <p>January 12, 2022 Motion to Amend filed by Adams 14.</p> <p>August 2021 external evaluation authorized by CDE.</p>
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	<p>14 Board and Superintendent, it would be prudent to allow them to develop the foundation for potential innovation status.”</p> <p>The first sentence of paragraph five is grossly false and not supported by evidence. The sentence should read, “The SRP gave consideration to management by a private or public entity other than the district. The district has expressed a desire to engage in a partnership with an external manager to the extent that such a relationship will take into consideration the constitutional and statutory rights and obligations of the district and local board, and that such a relationship is truly a partnership, and not a forced relationship as previously ordered by the State Board.”</p> <p>The second sentence of paragraph five uses the word “multiple.” Again, this is a subjective word, not objective. Also, the sentence is inaccurate as the external evaluation demonstrated that Adams 14 did not make progress under MGT.</p>	
P.4 (SRP Recommendation Form)	The first sentence of the first full paragraph is absolutely false, not supported by any evidence, and should be stricken from the report. The 2021 external evaluation authorized by CDE	<p>2021 external evaluation authorized by CDE.</p> <p>Code of Conduct for SRP Members requires an objective review and evaluation of documents.</p>

demonstrates that MGT was not working toward some of these expectations.

The second sentence of the first full paragraph should read, “However, as the Adams 14 Board and Superintendent had their authority reinstated on February 4, 2022, they should be given an opportunity to lay the groundwork to implement and monitor effectiveness of turnaround strategies.”

The first sentence of the second paragraph is, again, utterly false and flies in the face of documented evidence. The entire sentence is subjective, not based on actual evidence, and should be stricken in its entirety.

The first sentence of the third paragraph also should be stricken as being wholly untrue and not supported by evidence.

The second sentence of the third paragraph also fails to consider that the Adams 14 Board and Superintendent had their authority restored on February 4, 2022. So, exactly, how can the SRP objectively make such a statement? Further, the sentence is contradicted by the August 2021 external evaluation authorized by CDE, and the forensic audit.

