

BEFORE THE SPECIAL EDUCATION HEARING OFFICER

IN THE MATTER OF THE DUE PROCESS HEARING)

FOR) CASE NO. 26DP231-001

B.I AND USD 231 GARDNER/EDGERTON.)

Final Order

The above-captioned matter was set for Hearing at 11:00 a.m. on Thursday, January 15, 2026. Both USD 231 Gardner/Edgerton ("District") and ----- and ----- ("Parents") were notified of the hearing for B.I. ("Student"). The District was represented by attorney Shellie Guin of Guin Mundorf, LLC. Parents did not have legal counsel and did not participate in a resolution meeting. Despite multiple attempts by the Hearing Officer, Parents did not appear or participate in the Due Process Hearing.

Issue

1. Whether Student should be dismissed from special education because he no longer qualifies for services?

Procedural and Factual Background

Student, who is currently an eighth grader at Trail Ridge Middle School, was initially found eligible for special education services under the category of speech and language impairment and has received speech only services while enrolled in the District. During the 2024-2025 school year, Student received 20 minutes of speech services once per week to work on one IEP goal. On March 8, 2024, the team revised his IEP to provide his speech services of 20 minutes per week in the general education setting instead of the special education setting to ensure he could generalize his skills across settings. Parents consented to this change.

Student continued to have one goal to support speech fluency in the general education setting. Although Student's services were eventually moved back to being provided in the special education setting due to Student's discomfort with push-in services, he continued to make progress. In October of 2024, he met his IEP goal.

The District sought consent to reevaluate Student's speech, sound production, and language skills because it was suspected he no longer qualified for special education services. Parents consented to the reevaluation on March 8, 2025. Parents also requested an initial evaluation to determine whether Student was eligible for special education services in the areas of reading/reading comprehension. The District agreed to conduct the evaluation, and Parents provided consent on April 17, 2025.

The results of the reevaluation supported Student's dismissal from his speech-only IEP. Parents did not attend the first scheduled meeting to review the reevaluation results.

A second meeting to review the results of the March reevaluation was scheduled for May 12, 2025. Parents attended this meeting. The multidisciplinary team determined Student was no longer eligible under speech or language impairment and proposed dismissing him from special education services. The District provided a Prior Written Notice (PWN) to Parents indicating that Student has met his IEP goal and objectives and was reading and speaking with full fluency. Parents declined to consent to dismissal.

Instead, Parents requested that additional assessments in the areas of social/emotional and executive functioning be added to Student's pending initial evaluation. The District agreed, and Parents provided consent for the additional assessments on May 15, 2025. The team met to review the evaluation results on September 23, 2025, but Parents did not attend. After discussing the evaluation, the team determined that Student did not meet the criteria for special education services. The District issued a PWN to Parents requesting consent to dismiss Student from special education. Parents did not consent to Student's dismissal from special education.

The District filed the Due Process Complaint forming the basis for this matter. The District seeks an order from the Due Process Hearing Officer authorizing Student's dismissal from speech/language services consistent with the PWN issued on September 23, 2025.

Findings of Fact

1. Student was in the sixth grade during the 2023-2024 school year and attended Trail Ridge Middle School. He was eligible for special education and related services under the primary disability of speech and language impairment. Ex. 1; Ex. 4.
2. An IEP dated April 4, 2023, was in effect at the beginning of Student's sixth grade year. The IEP had one goal: "When given verbal cues to pseudo stutter, [Student] will be able to independently correct the stutter using fluency strategies (i.e., easy onset, preparatory sets) at 90% accuracy by end of the IEP as measured by Running Records." Ex. 1.
3. The goal included measurable objectives/benchmarks to be measured throughout the year as Student progressed toward goal mastery. Testimony of Alexandria Cooke, Speech Language Pathologist.
4. Student's objectives included minimal cues to achieve increased accuracy throughout the year. For instance, in order to be on track to meet the goal, Student would be able to correct his stutter with minimal cues at 80 percent accuracy by the end of the school year while working toward 90 percent accuracy by the end of the IEP year. Ex. 1; Testimony of A. Cooke.
5. The District measured goal progress on May 18, 2023; October 6, 2023; and January 3, 2024. Ex. 1, Testimony of A. Cooke.

6. On October 6, 2023, Student was able to correct his stutter using fluency strategies when given minimal cues at 90 percent accuracy. He was able to independently (without cues) correct the stutter using fluency strategies at 80 percent accuracy. Ex. 1; Testimony of A. Cooke.
7. On January 3, 2024, Student corrected the stutter using fluency strategies independently with 90 percent accuracy, meeting the goal. Ms. Cooke, Student's SLP and case manager, wrote on his progress report, "His speech during structured activities, such as reading or role-playing and in real-life conversation sounds smooth and articulate. Awesome job, [Student]!" Ex. 1; Testimony of A. Cooke.
8. When a Student meets a goal before the end of the school year, the District would generally consider an IEP team meeting to discuss options, including initiating a reevaluation. Ms. Cooke believed that Parents would not consent to changes to Student's IEP, so she continued to work with Student on maintaining his skill level until the annual IEP review. Testimony of A. Cooke.
9. As Student's case manager, Ms. Cooke was tasked with scheduling his annual IEP review. Although Student's annual IEP review meeting was not due until April 4, 2024, Ms. Cooke began working on scheduling the meeting in January and attempted to schedule the meeting a month in advance because Parents had rescheduled meetings in the past. The annual IEP review meeting was scheduled for March 22, 2024. Parents indicated that they would attend the meeting. Ex. 2, Testimony of A. Cooke.
10. Parents attended the March 22, 2024, meeting. At the meeting, Ms. Cooke shared that Student was doing well and no longer needed speech therapy. The Parents felt the District was abandoning Student and raised concerns regarding Student's comfort level when communicating. Student had difficulty when communicating in unfamiliar situations. Ex. 3, Testimony of A. Cooke.
11. Due to Parents' concerns, the team changed Student's service delivery from the G setting, which is the special education classroom, to the C setting, the general education classroom. This meant that Ms. Cooke would "push-in" to support Student in the general education classroom, rather than providing "pull-out" services in the special education classroom. Push-in services allowed Student to remain in the least restrictive environment. Ex. 3, Testimony of A. Cooke.
12. At the meeting, the team developed the following goal: "When participating in classroom activities with peers and educators, [Student] will be able to independently advocate for himself, express ideas, and/or request more information as needed at a score of 5 on a 1-5 self-rating scale by [the] end of the IEP as measured by Observation." Ex. 4.
13. The resulting IEP, dated March 22, 2024, provided 20 minutes of direct speech/language services within the general education setting once per week to assist Student with communication in the classroom. Ex. 4; Ex. 5.
14. Ms. Cooke, as case manager, prepared a PWN detailing the changes the team agreed to. Parents signed the PWN, reflecting their consent, and allowing the District to implement the agreed-upon changes to the IEP. Ex. 5, Testimony of A. Cooke.

15. The March 22, 2024, IEP was in effect at the end of Student's sixth-grade year and into his seventh-grade year. Ex. 4; Testimony of A. Cooke.
16. During Student's seventh-grade year, Ms. Cooke pushed in to Student's science class to provide his services. Ms. Cooke observed Student shutting down when she entered the class. Student appeared to feel uncomfortable and singled out when she was there. Ms. Cooke spoke with Parents, and they agreed to change the setting of services back to the G setting, and return to providing pull-out, rather than push-in services. Testimony of A. Cooke.
17. Ms. Cooke prepared a PWN dated October 9, 2024, that proposed an IEP amendment changing the setting for Student's direct speech/language services from the general education classroom to outside the general education classroom and changing Student's goal to address communication with an unfamiliar partner. The goal was changed because the prior goal addressed communication within the classroom. Parents signed the PWN, reflecting consent to the proposed changes on October 24, 2024, and the change was implemented on November 1, 2024. Ex. 6; Ex. 7; Testimony of A. Cooke.
18. To implement the revised goal, Student and Ms. Cooke walked around the school building to locate a communication partner Student did not know. Student would then read a story to that person. Testimony of A. Cooke.
19. Student met the goal by March 2025, and Ms. Cooke developed the professional opinion that he should be dismissed from special education. The District must evaluate before dismissing a student from special education. Testimony of A. Cooke.
20. On March 4, 2025, the District issued a PWN seeking parental consent to reevaluate Student in the area of Communicative Status. Ex. 8.
21. The purpose of the reevaluation was to provide relevant information to determine:
 - a. Whether Student continued to be a child with an exceptionality;
 - b. The present levels of Student's academic achievement and related developmental needs;
 - c. Whether Student continues to need special education and related services; and
 - d. Whether any additional modifications to the special education and related services were needed to enable Student to meet the measurable annual goals set out in the IEP.Ex. 8.
22. On March 8, 2025, the Parents consented to the reevaluation to assess Student's communicative status, and Ms. Cooke performed the evaluation and memorialized it in an evaluation report. Ex. 8; Ex. 9; Testimony of A. Cooke.
23. Ms. Cooke administered two assessments: the Middle School Language Screening and the Phonological Awareness Skills Test (P.A.S.T.). Ex. 9.

24. The Middle School Language Screening assessed language in five areas. A score of 4/5 on the individual areas is considered passing. Student scored 4/5 or 5/5 on each of the Middle School Language Screen subtests. Ex. 9; Testimony of A. Cooke.
25. The P.A.S.T. assesses 15 areas of phonological awareness. A score of 5/6 in the individual areas is considered passing. Student scored 5/6 or 6/6 in all areas except one: phoneme segmentation, on which he scored 3/6. Ex. 9; Testimony of A. Cooke.
26. The multidisciplinary team met on March 14, 2025, to review the evaluation data and determine whether Student was a student with a disability in need of special education and related services. Parents did not attend the meeting. Ex. 9; Ex. 10.
27. The other team members discussed the evaluation report. Student's lower score in phoneme segmentation does not support ongoing special education services. The team supported dismissing Student from the speech-only IEP. Ex. 9; Ex. 10; Testimony of A. Cooke.
28. Although the team in attendance at the March 14, 2025, evaluation meeting agreed to dismiss Student from special education, they could not do so without Parents' written consent. Accordingly, Ms. Cooke continued to try to schedule a meeting with Parents. Testimony of A. Cooke.
29. In her communications with Parents, Ms. Cooke learned that they had additional concerns about his academic performance, specifically, his reading ability. The District agreed to open an initial evaluation to perform assessments in the areas of general intelligence and academic performance. Parents consented to the initial evaluation on April 17, 2025. Ex. 11; Testimony of A. Cooke.
30. On April 17, 2025, the District opened an initial special education evaluation at the Parents' request. The evaluation would assess the areas of general intelligence and academic performance to determine whether Student met eligibility criteria and demonstrated a need for special education services in the areas of reading/reading comprehension. Ex. 11.
31. While the initial evaluation was underway, the District continued to try to schedule a meeting with the Parents to discuss his re-evaluation and potential dismissal from speech-only services. The District proposed an IEP meeting with Parents on May 1, 2025. Parents were not able to attend on May 1, and the meeting was rescheduled to May 12, 2025. Ex. 12; Ex. 13; Testimony of A. Cooke.
32. Student's mother attended the meeting on May 12, 2025. At the meeting, the team reviewed the results of the March 14, 2025, evaluation report, as well as progress monitoring. Ex. 14.
33. Ms. Cooke interpreted the results of the speech-language evaluation as follows:
"[Student] exhibits several independent strengths in communication. While one area of difficulty has been highlighted, this should not raise any concerns when considering the overall assessment data. [Student] showed independent and full understanding of phonological awareness tasks. Strengths in this area allows [sic] children to comprehend the sound structure of words, which is essential for both decoding and

encoding written text. [Student] has demonstrated independent retention of all skills required for him to be successful in the area of communication.” Ex. 14.

34. Student’s mother expressed concern that if Student stopped receiving services, he would go back into his shell. She was worried about his confidence and concerned that he would regress. Ex. 15; Testimony of A. Cooke.
35. The team discussed next steps, including adding the areas of executive functioning and social/emotional/behavioral to the initial evaluation and having an unfamiliar speech-language pathologist assess his communication skills. At the conclusion of the May 15, 2025, evaluation meeting, the multidisciplinary team determined Student was no longer eligible under speech or language impairment and proposed dismissing him from special education services. Parents did not agree and did not sign the PWN for dismissal from services. Ex. 14; Ex. 15; Ex. 16.
36. The following day, May 13, 2025, the District issued a PWN proposing an initial evaluation with assessments in the areas of social/emotional/behavioral status and executive functioning. Parents consented to the initial evaluation on May 23, 2025. Ex. 17; Testimony of A. Cooke.
37. The purpose of the reevaluation was to provide relevant information to determine:
 - a. Whether Student continued to be a child with an exceptionality;
 - b. The present levels of Student’s academic achievement and related developmental needs;
 - c. Whether Student continues to need special education and related services; and
 - d. Whether any additional modifications to the special education and related services were needed to enable Student to meet the measurable annual goals set out in the IEP.Ex. 17.
38. The PWN identified Social/Emotional Status/Behavioral Status and Other (executive functioning) as the areas of functioning requiring additional assessment or data collection. Ex. 17.
39. Because the District received consent for the initial evaluation at the end of the 2024-2025 school year, it was completed at the beginning of the 2025-2026 school year, when Student was in the eighth grade. Testimony of A. Cooke.
40. School Psychologist Grace Kelly was the evaluation case manager for Student’s comprehensive evaluation. Ms. Kelly compiled the evaluation report and also performed some of the assessments. Former School Psychologist Ms. Pfeiffer performed the academic assessments, but Ms. Kelly is qualified to interpret the results. Ex. 19; Testimony of G. Kelly.
41. Ms. Kelly’s efforts also included sending rating scales for the Behavior Assessment System for Children, Third Edition (BASC-3), Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2) to Parents and Student’s teachers so they could

provide their ratings of him. Parents did not complete either rating scale. Testimony of G. Kelly.

42. Ms. Kelly provided proper written notice of a meeting to review the results of Student's initial evaluation. Parents first agreed to meet on September 9, 2025, but cancelled the day of the meeting. Ex. 25; Testimony of Grace Kelly.
43. On September 9, 2025, Parents agreed to meet on September 23, 2025. Ms. Kelly sent Notices of Meeting on September 9 and September 15, 2025. Ms. Kelly also sent Parents a copy of the evaluation report to review before the meeting. Ex. 18; Ex. 25; Testimony of G. Kelly.
44. On September 15, 2025, Student's mother emailed Ms. Kelly stating her understanding was that the evaluation report showed that Student did not qualify as having an exceptionality and that there was no reason for her to come to the meeting. She stated if her understanding was correct, she "will wash [her] hands of anything else to do with this matter." Ex. 25; Testimony of G. Kelly.
45. Ms. Kelly responded that the District was required, by law, to hold the meeting and stating that Parents are a very important part of the team and their attendance would be greatly appreciated. Student's mother then agreed to attend the meeting. Ex. 25; Testimony of G. Kelly.
46. Parents did not attend the meeting. Ex. 19; Testimony of G. Kelly.
47. At the eligibility meeting on September 23, 2025, the team members discussed Student's strengths, teacher input, and evaluation data. The team included Ms. Cooke, Ms. Kelly, Mandy Taylor, general education teacher, and Colleen Delehanty, the unfamiliar SLP who performed communication assessments. Ex. 19; Ex. 20; Testimony of G. Kelly; Testimony of Colleen Delehanty.
48. Specifically, the team discussed the results of the BASC-3 showed that Student displayed most behaviors at a rate typical to same-aged peers. Ex. 19; Testimony of Testimony of G. Kelly.
49. Three of Student's teachers filled out BRIEF-2 rating scales regarding Student. The results indicated that Student displayed average and age-appropriate executive functioning skills across the educational setting. Ex. 19.
50. In the area of communication, Student was well within normal limits even with an unfamiliar communication partner. Ms. Delehanty assessed his articulation through conversation. He was quiet initially but became talkative with her and was successfully able to perform the tasks she asked him to perform. She noted no issues when compared to same aged peers. He functioned within normal limits in the areas of articulation, language, voice, and fluency. Ms. Delehanty concluded that he did not qualify as a student with a speech or language impairment and did not demonstrate a need for specialized instruction. Ex. 19; Testimony of C. Delehanty.
51. In the area of cognitive and achievement assessment, Student's overall cognitive abilities were all within the average range. His scores "indicate that he is a very bright student who is cognitively capable of abstract thinking and processing verbal

information; these scores are not indicative a of learning disability." Ex. 19; Testimony of G. Kelly.

52. For its Summary and Conclusions, the Evaluation Report notes:

Results of this evaluation indicate that [Student] is functioning within normal limits in the areas of articulation, language, voice and fluency. He does not qualify as a student with a Speech or Language Impairment and does not demonstrate a need for specialized instruction.

At this time, [Student] does not demonstrate a pattern of strengths and weaknesses within his cognitive abilities and academic achievement that are indicative of a Specific Learning Disability in the State of Kansas as defined by the Kansas State Department of Education, and as such, does not meet Prong One of the test of eligibility. [Student's] cognitive and academic scores indicate that he is able to appropriately access the general education curriculum and at this time, the Trail Ridge Middle School multidisciplinary team should discuss that [Student] does not qualify for special education services under Specific Learning Disability and as such, should be educated in his fully Least Restrictive Environment (LRE) of the general education setting.

Ex. 19.

53. Following review of the evaluation report, the multidisciplinary team concluded that Student did not meet the criteria as a child with an exceptionality and did not qualify for special education. The District proposed the Student no longer qualify for special education under speech-language impairment and that he did not qualify for special education under specific learning disability because he did not meet prong one of the eligibility criteria as defined by the Kansas State Department of Education. Ex. 19; Ex. 21.

54. Mandy Taylor, Student's eighth-grade English Language Arts teacher, agreed with the team's conclusion. Ex. 19; Testimony of Mandy Taylor.

55. Ms. Taylor, who, in addition to her general education credentials, holds a master's degree in special education, stated Student is a typical eighth-grade boy who likes to talk with his peers, and his peers understand him. Student speaks up in class and does not stutter. He is not hard to understand. Ms. Taylor did not identify any issues with Student's communication. She stated that he should not be pulled from class and miss instructional time for services. Testimony of M. Taylor.

56. The District issued a PWN again proposing that Student be dismissed from speech-language special education and additionally proposing that student be found ineligible for special education under the category of specific learning disability. Ex. 19; Ex. 21.

57. Parents did not sign the PWN and did not consent to the discontinuation of Student's speech-language IEP. Ex. 21.

58. To date, Parents have refused to sign consent dismissing Student from special education services. Ex. 21.

59. On October 20, 2025, the District filed a due process complaint proposing that an Order be issued authorizing Student's dismissal from speech/language services consistent with the PWN issued on September 23, 2025. Ex. 23.
60. Notwithstanding Student's reevaluation, progress report, and May 12 and September 23, 2025, IEP meetings determining that he no longer qualifies for services, Student has continued to receive services pursuant to his IEP. Ex. 22; Testimony of A. Cooke.
61. Because Parents have not consented to Student's dismissal from services, Ms. Cooke has continued to provide services pursuant to Student's IEP. Specifically, she pulls him from class for 20 minutes per week to work on the goal that he has already mastered. Student is fully fluent with unfamiliar communication partners. Ex. 22; Testimony of A. Cooke.
62. Student's attendance has been inconsistent since beginning the eighth grade. Testimony of A. Cooke, Testimony of M. Taylor.
63. Student has missed services with Ms. Cooke due to his inconsistent attendance. Despite missing services, Student has not regressed. Testimony of A. Cooke.
64. The District is requesting an order authorizing Student's dismissal from speech/language services consistent with the PWN issued on September 23, 2025. Ex. 21.

Argument and Authorities

When school personnel suspect that a child is no longer eligible for special education and related services, a reevaluation must be conducted to determine if the child is no longer a child with an exceptionality. 34 C.F.R. § 300.305(e)(1); K.S.A. 72-3428(l)(1); K.A.R. 91-40-10(g)(1). If, after a reevaluation, the team determines that the student is no longer eligible for special education, it must provide Prior Written Notice informing the parent that the district is proposing to discontinue services. 34 C.F.R. § 300.503(a)(1); K.S.A. 72-3430(b)(2); K.A.R. 91-40-26(a). The district must obtain written consent from the parent before discontinuing services. 34 C.F.R. § 300.300(d)(2); K.S.A. 72-3430(b)(6); K.A.R. 91-40-27(a)(3). If the district is unable to obtain parental consent, then it may request a Due Process Hearing seeking an order authorizing the discontinuation of services. 34 C.F.R. § 300.507(a)(1); K.S.A. 72-3415(a)(1); K.A.R. 91-40-28(a).

Order

After considering the evidence and applying the applicable law and regulations, the Due Process Hearing Officer finds that the District suspected Student was no longer eligible for special education services and properly (1) conducted a reevaluation, (2) reviewed the results with the IEP team, (3) determined that Student was no longer eligible, and (4) issued a PWN to Parents proposing that Student be dismissed from services.

The District also requested Parents' consent, which was never provided. The District properly continued to provide Student services while it attempted to resolve any issues with Parents to obtain consent.

Pursuant to K.S.A. 72-3428(l)(1), 34 C.F.R. §300.503, and K.A.R. 91-40-28(a), and the information reviewed in his reevaluation, progress report, and provided by the District, Student is no longer eligible for speech/language services and is hereby dismissed from special education services.

IT IS SO ORDERED this _25th_ day of January, 2026.

_s/James G. Beasley_____
James G. Beasley, Hearing Officer

Certificate of Service

A true and correct copy was sent by electronic mail to the following:

-----, Parent

-----, Parent

Shellie Guin, attorney for the District
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Dr. Crista Grimwood, Ed.D, KSDE
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_s/James G. Beasley_____
James G. Beasley, Hearing Officer